Clearinghouse Review

NATIONAL CLEARINGHOUSE FOR LEGAL SERVICES, INC.

Americk v. Carroll [44,888]; Acc. No. 1012018
No. 89-2-00052-7 (Wash. Super. Ct., Pend Oreille County, July 13, 1989), 747

Ames v. Employment Appeal Bd.
439 N.W.2d 669 (Iowa 1989), 715

Amoretti, *In Re*

Anderson v. White [44,689]; Acc. Nos. 1011864; 1012409
888 F.2d 985 (3d Cir. 1989), 593, 1314

Andrade v. Bowen [44,071]; Acc. No. 1012079
No. 88-F-211 (D. Colo. June 7, 1989), 762

Andre v. Fink [45,184]; Acc. No. 1012321
447 N.W.2d 808 (Mich. Ct. App. 1989), 1345

Andres v. Bowen
870 F.2d 453 (8th Cir. 1989), 570

Andresen v. Andresen
564 A.2d 399 (Md. 1989), 1385

Annual Index

May 1989 to April 1990
Vol. 23

A.P. Parts Co. v. Bureau of Employment Servs.
542 N.E.2d 684 (Ohio Ct. App. 1988), 1384

Apodaca, *In re*

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The Clearinghouse encourages submission of articles from legal services field staff and others. Manuscripts should be typewritten, double-spaced, with the footnotes double-spaced at the end of the article. Articles intended for the Management of Legal Services section should be sent to the Management Department Editor, National Clearinghouse for Legal Services, Inc., 407 South Dearborn, Suite 400, Chicago, IL 60605.

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Clearinghouse Review
Annual Index

Volume 23

Acknowledgments

The Clearinghouse is pleased to publish the Annual Index to Volume 23. In addition to its standard sections, this index incorporates a new design crafted to ease reading and facilitate research. Readers are reminded to use this Index in conjunction with the Cumulative Index to Volumes 1-17, the Annual Indexes to Volumes 18, 19, 20, 21, and 22, and the LSC Data Base maintained on the Westlaw computer system for comprehensive research into Clearinghouse case files. In addition, please feel free to call for library assistance and/or to request a free Electronic File Room (EFR) search of the Clearinghouse internal computer system.

Cases in Volume 23 are all online and searchable at the Clearinghouse. To request an EFR search, call toll-free 1-800-621-3256 (outside of Illinois) or call collect 1-312-939-3834 (within Illinois). You will receive a copy of the abstracts retrieved and copies of the documents clearly on point. Please specify that you are requesting a free search, since the toll-free numbers are also used for Westlaw and Dialog requests, which are not free, and for document orders. (Programs not funded by the Legal Services Corporation or the Administration on Aging must pay the usual photocopying and postage charges for documents described on the order forms found in back of this Index.)

The *Clearinghouse Review* Annual Index editor is John Blaser, who also copy edits the *Review* and other Clearinghouse publications. Special thanks are due to John for his extra efforts in making the Index as accurate and as comprehensive as possible. Producing the Index is a year-round project, and John has already begun work on the Volume 24 Index. Thanks are also due to law student Kathleen Ulbert for editorial assistance.

Production editor Gary Baldwin and editorial assistant Stephanie McPeak collaborated on the redesign. Stephanie spearheaded the production effort on our desktop publishing equipment.

Our annual indexes are crucial to your legal research, and they make all of the monthly issues of the *Review* more useful. If you have suggestions and comments on ways to improve the Index, please write or call.

Lucy Moss
Assistant Director

Annual Index
Clearinghouse Review
Volume 23

Monthly Issues Pages

May 1989 1-102
June 1989 103-234
July 1989 235-366
Special Issue, Summer 1989 367-504
August/September 1989 505-664
October 1989 665-798
November 1989 799-928
December 1989 929-1068
January 1990 1069-1254
February 1990 1255-1404
March 1990 1405-1500
April 1990 1501-1594

How to Use This Index

This Index represents a topical categorization of all Case Developments, Advance Sheet Highlights, articles, columns, and Federal Register Highlights that have been reported in the *Clearinghouse Review* during its 23rd volume year, May 1989 through April 1990.

The Casetable lists alphabetically all cases reported in either the Case Developments or Advance Sheet Highlights sections of the *Review.* For each case, the following information is provided: the Clearinghouse Number, in brackets; the Accession Number(s), in numerical order; any case citations or date of decision, reported with the most recent citation last; and the page number(s) of the *Review* on which the case appears. The Topical Index classifies all cases reported in the Case Developments and Advance Sheet Highlights sections of the *Review.* Most headings contain *see* and *see also* references directing readers to other major subject headings for information on that topic. Within each major heading, the cases listed are divided into subtopics, often spanning two or more levels or categories representing the most specific issues covered by that case. Users are advised to search the Topical Index for the names of cases that involve specific research topics, and then to refer to the Casetable for more detailed citation information.

The Articles and Columns sections of this Index list articles and columns published in the *Review* by author name and by topic. The Articles and Columns topical index also contains short summaries of all articles and columns indexed. The Federal Register Highlights section lists items under major headings only. Items are listed alphabetically within each category and include the page numbers on which the items appear in the *Review.* For comprehensive research, readers are advised to use this Index in conjunction with the Cumulative Index to volumes 1-17 of the *Clearinghouse Review* and the Annual Indexes to volumes 18, 19, 20, 21, and 22.

John Blaser
Index Editor

Contents

Articles and Columns

Author Index 3
Topical Index 5

Federal Register Highlights 12

Topical Index

Abortion 19
Administrative Law 19
Adoption 19
Aid to Families with Dependent Children 20
Aliens 23
Attachment 23
Attorney Fees 23
Attorneys 25
Automobiles 25
Bankruptcy 26
Black Lung Benefits 27
Census 27
Civil Procedure 27
Civil Rights 31
Class Action 32
Community Development 32
Consumer 32
Contracts 35
Criminal Law and Procedure 35
Decedents' Estates 35
Dependent and Neglected Children 35
Divorce 37
Domestic Relations 38
Driver's License 40
Due Process 40
Education 41
Elections 43
Employment 43
Employment Discrimination 43
Energy 45
Environmental Law 45
Equal Protection 46
Evidence 46
Food Programs 46
Freedom of Information 48
Garnishment 48
Government 48
Handicapped Persons 49
Health 51

Hill-Burton Act 52
Housing 52
Illegitimate Children 60
Immigration 60
In Forma Pauperis 61
Insurance 61
Juries 62
Juvenile Courts 62
Juvenile Institutions 62
Juveniles 62
Language Discrimination 62
Legal Services 62
Liens 63
Medicaid 63
Medical Assistance Programs 65
Medicare 66
Mental Health 67
Migrants 68
Military 68
Municipal-Government Services 69
Native Americans 69
Pardon and Parole 70
Pensions 70
Police 71
Prisons 71
Privacy 74
Public Transportation 74
Public Utilities 74
Railroad Retirement Plan 75
Relocation 75
Repossession 75
Rural Issues 75
Senior Citizens 75
Social Security Programs 75
Supplemental Security Income 80
Taxes 82
Truth in Lending 82
Unemployment Compensation 83
Urban Renewal 86
Welfare 87
Women's Rights 89
Worker's Compensation 90
Zoning 90

Casetable 91

Order Form 121

Anselmo, Elvera; Chapman, Randall
State Support: An Integral Part of Legal Services Delivery, 834

Arnason, Sia; Koski, Andrew; O'Brien, Nora; Polimeni, Nora; Rosenzweig, Ellen; Sacks, Debra
A Holistic Approach to Elder Law: The Successful Marriage of Law and Social Work, 450

Berlow, Robert
See Freedman, Henry

Blong, Adele M.; Casey, Timothy J.
AFDC Program Rules for Advocates: An Overview, 802

Bortolan, Lynn
Loan Forgiveness Report Highlights Problems of Educational Debt, 1523

Buckel, David Stroh
Penalizing the Failure to Make Proper Credibility Findings in Disability Cases, 945

Casey, Timothy J.
The Family Support Act of 1988: Molehill or Mountain, Retreat or Reform?, 930
See also Blong, Adele M.

Center on Social Welfare Policy and Law
An Explanation of Fill the Gap Budgeting as Used in the AFDC Program, 153
AFDC: Favorable New Policies Exclude Certain Payments from Income and Resources, 266
Welfare Law Developments, 1128

Chapman, Randall
See Anselmo, Elvera

Chiplin, Alfred J., Jr.
The Older Americans Act: Current Problems and Developments, 677
See also man, Judith G.

Colton, Roger D.
Statutes of Limitations: Barring the Delinquent Disconnection of Utility Services, 3

Daniel, Michael M.
See Julian, Elizabeth K.

Deford, Gill; Sweeney, Eileen P.
SSI Resource Rules: An Update, 465

DeWolfe, Ruthanne
Prison Law Developments, 1111

Dorn, Stan
See Perkins, Jane

DuBow, Sy
See Strauss, Karen Peltz

Elsesser, Charles F., Jr.
California's Response to *Evans* v. Jeff D., 951

Esterle, Mark D.
Unemployment Compensation and the First Amendment: Freedom of Religion Under *Frazee*, 248

Fairbanks, Joan E.
Estate Planning and Small Estates Probate for the Elderly: A New Role for the Private Bar, 692
Home Equity Conversion Programs: A Housing Option for the House-Rich, Cash-Poor Elderly, 481

Finberg, Jeanne
Medicaid Liens and Estate Recoveries—More or Less?, 544

Finberg, Jeanne; Schwartz, Roger
Implementation of the Medicaid Provisions of the Medicare Catastrophic Coverage Act, 370

First, Curry
"Poor Joshua!": The State's Responsibility to Protect Children from Abuse, 525

Food Research and Action Center
Securing Access to the Food Stamp Program for the Non-English-Speaking Poor, 954

Freedman, Henry; Berlow, Robert
SSI Benefits for Individuals and Couples Who Own Excess Nonliquid Resources, 474

Gottlich, Vicki; Wood, Erica
Statewide Review of Guardianships: The California and Maryland Approaches, 426

Gottlieb, Steven; Warner, Regina
A Survey of Employee Benefits in Legal Services, 34

Gray, James C., Jr.
See Spitz, Stephen L.

Grimm, William
See Wolff, Judith

Harak, Charles
State Law Remedies for Unlawful Disconnections of Utility Service, 14

Heymann, Phillip B.
A Law Enforcement Model for Legal Services, 254

Holtzman, Paul
See Spitz, Stephen L.

Hommel, Penelope A.; Lisi, Lauren Barritt
Model Standards for Guardianship: Ensuring Quality Surrogate Decision Making Services, 433

Hough, Elizabeth
See Williams, Jim

Houseman, Alan W.
A Short Review of Past Poverty Law Advocacy, 1514

Jackson, Shelley
Introduction to Education Law, 883

Jones, Elizabeth; Kanter, Arlene S.
Advocating for Freedom: The Community Placement of Elders from State Psychiatric Hospitals, 444

Julian, Elizabeth K.; Daniel, Michael M.
Separate and Unequal: The Root and Branch of Public Housing Segregation, 666

Kanter, Arlene S.
See Jones, Elizabeth

Keest, Kathleen
Consumer Law for the New Legal Services Practitioner, 877

Koblenz, Esther
See Perkins, Jane

Komlos-Hrobsky, Peter
Representative Payee Issues in the Social Security and Supplemental Security Income Programs, 412

Koski, Andrew
See Arnason, Sia

Lauritsen, Marc
Delivering Legal Services with Computer-Based Practice Systems, 1532

Levy, Daniel
An Outline of Immigration Law, 814

Leyser, Barbara
The SSI Emergency Advance Payment System, 479

Libby, James M., Jr.
The Vermont Housing and Conservation Trust Fund: A Unique Approach to Developing Affordable Housing, 1275

Lisi, Lauren Barritt
See Hommel, Penelope A.

Little, John
See National Economic Development and Law Center

Massin, S. Scott
The United States Bankruptcy Code: An Analysis of Legislative Reform and Judicial Interpretation, 1268

McGillis, Daniel
What's Gone Right—And Wrong—For Justice Centers, 48

McNulty, Molly
See Perkins, Jane

Melden, Michele
See Perkins, Jane

Meltsner, Michael; Schrag, Phillip G.
Negotiating Tactics for Legal Services Lawyers, 858

Mental Health Law Project
Mental Disability Law Developments, 1214

Migrant Legal Action Program
Migrant Law Developments, 1202

Milstein, Bonnie; Pepper, Beth; Rubenstein, Leonard
The Fair Housing Amendments Act of 1988: What It Means for People with Mental Disabilities, 128

Moore, Steven
See Morrison, Scott

Morrison, Scott; Moore, Steven
How to Identify an Indian Law Case, 862

Moss, Kary L.
Legal Issues: Drug Testing of Postpartum Women and Newborns as the Basis for Civil and Criminal Proceedings, 1406

National Center for Youth Law
Beyond Heat, Light, and Ventilation: Using an Environmental Expert on Behalf of Institutionalized Clients, 535
Youth Law Developments, 1145

National Consumer Law Center
Consumer and Energy Law Developments, 1180
Consumer Law for Housing Lawyers: Bankruptcy, 699

National Economic Development and Law Center
Community Economic Development at Work, 1164

National Economic Development and Law Center; Little, John
Practicing Community Corporate Law, 889

National Health Law Program
Combatting Pregnancy Discrimination in Access to Substance Abuse Treatment for Low-Income Women, 21
Due Process and Indigent Health Care: Handles to the Front Door, 1422
Health Care for the Poor, 1072
Legal Rights to Health Care for Persons with AIDS, 30
State Health Insurance Programs for the Uninsured Poor, 141
That Was Then, This Is Now: Reviewing the Supreme Court's Eleventh Amendment Activities, 966

National Housing Law Project
Federal Housing Law Developments, 1091

National Immigration Law Center
The Five-Year Restriction on Amnesty Alien Eligibility for Public Benefits, 1286

National Legal Center for the Medically Dependent and Disabled
Medical Treatment for the Elderly and Disabled, 1154

National Senior Citizens Law Center
Administrative Finality in Disability Proceedings, 147
Developments in OBRA-87 Nursing Home Sanctions Requirements, 1540
Elder Law Developments, 1081
Finders, Keepers, Losers, Weepers: Conflict of Laws in Adult Guardianship Cases, 1415
Level of Care for Medicaid Nursing Homes to Be Eliminated by October 1, 1990: What Lies Ahead, 959

National Veterans Legal Services Project
Veterans' Law Developments, 1138

Nemore, Patricia
The New Medicare SNF Benefit: Protecting the Intended Beneficiaries, 404

O'Brien, Nora
See Arnason, Sia

O'Connor, Michael A.
Homeless: A Local View of the McKinney Act, 116

Pennington, Joan
The Economic Implications of Divorce for Older Women, 488
Family Law Developments, 1191

Pepper, Beth
See Milstein, Bonnie

Perkins, Jane; Koblenz, Esther; Rosenthal, Laura; Dorn, Stan; McNulty, Molly
Health Care Rights of the Poor: An Introduction, 825

Perkins, Jane; Melden, Michele; Koblenz, Esther
Omnibus Budget Reconciliation Act of 1989: Legislative Changes in Medicaid, 1502

Polimeni, Nora
See Arnason, Sia

Renuart, Elizabeth
The Elusive Path to an Award of Attorney Fees Under 42 U.S.C. 1988, 16

Reynolds, Joel
Emerging Issues in Civil Practice: Confidentiality of Public Assistance Records, 540

Roberts, Paula
Child Support Enforcement in 1989, 1101

Rosenthal, Laura
See Perkins, Jane

Rosenzweig, Ellen
See Arnason, Sia

Rubenstein, Leonard
See Milstein, Bonnie

Sacks, Debra
See Arnason, Sia

Schrag, Phillip G.
See Meltsner, Michael

Schulzinger, Rhoda (editor)
Homeless: A Dialogue on Welfare and Housing Strategies, 104

Schuster, Michael R.
Legal Support to the Long-Term Care Ombudsman Program: A Practical Guide, 418

Schwartz, Roger
See Finberg, Jeanne

Skoler, Daniel L.
The Elderly and the Federal Courts, 1256

Snyder, Keith
Paralegal's Guide to Veterans' Administration Advocacy, 236

Spitz, Stephen L.; Gray, James C., Jr.; Holtzman, Paul
The Supreme Court and Employment Discrimination, 1222

Stichman, Barton F.
The Veterans' Judicial Review Act of 1988: Congress Introduces Courts and Attorneys to Veterans' Benefits Proceedings, 506

Strauss, Karen Peltz; DuBow, Sy
Congressional Developments in Disability Law, 1172

Super, David A.
Introduction to the Food Stamp Program, 870

Sweeney, Eileen P.
See Deford, Gill

Tenenbaum, Richard L.
Clients with Drug-Related Problems: What Should Be Done?, 25

Vignery, Bruce
Legislative Trends in Nonjudicial Surrogate Health Care Decision Making, 422

Warner, Regina
See Gottlieb, Steven

Waxman, Judith G.; Chiplin, Alfred J., Jr.
Medicare Part B Appeals—And You Thought the System Was Fixed, 384

Wheeler, Charles
Alien Eligibility Under LSC Restrictions, 822

Williams, Jim; Hough, Elizabeth
Employment Law Developments, 1116

Wilson, Sally Hart
Income Tax Provisions Affecting the Elderly, 389

Wolff, Judith; Grimm, William
Representing Parents in Termination of Parental Rights Proceedings, 849

Wood, Erica
See Gottlich, Vicki

ATTORNEYS/LEGAL SERVICES

California's Response to *Evans v. Jeff D.* 951

In response to the Supreme Court's ruling in *Evans v. Jeff D.*, public interest attorneys in California requested the California State Bar Association to propose a new ethical rule expressly dealing with fee waivers in settlements.

Clients with Drug-Related Problems: What Should Be Done? 25

A legal services attorney writes about the need for an intensive and comprehensive examination of drug abuse and drug trafficking as they have come to affect the low-income community.

Delivering Legal Services with Computer-Based Practice Systems 1532

New kinds of computer programs just now coming into wide use in the legal profession directly support the substantive practice of law; these include what are variously called "practice systems," "substantive systems," "intelligent document assembly systems," or even expert systems.

The Elusive Path to an Award of Attorney Fees Under 42 U.S.C. 1988 16

This article discusses the standard to apply in deciding what constitutes a "prevailing party," whether a plaintiff can "lose" on the merits and still be entitled to fees, and whether compensation is available for time spent in certain administrative proceedings.

A Holistic Approach to Elder Law: The Successful Marriage of Law and Social Work 450

Elderly clients often have a multiplicity of problems requiring an interdisciplinary approach, and the boundaries between the legal issues and the social work issues encountered by clients are often obscure; for these reasons, law and social work have come to complement each other, to the benefit of professionals in both fields.

A Law Enforcement Model for Legal Services 254

During the 1980s, no political issue about lawyering has been more vigorously contested in Congress than whether lawyers should be provided to the poor and, if so, in what form; this article argues that, to the extent that it takes lawyers to provide some assurance that no group can be systematically oppressed, funding legal services for the poor may be to the advantage of us all.

Legal Support to the Long-Term Care Ombudsman Program: A Practical Guide 418

This article surveys how long-term care ombudsman programs have obtained legal assistance in the past, discusses the expanded role of the program in advocating for long-term care facility residents, and offers suggestions on how states should satisfy the Older Americans Act Amendments' legal assistance requirements.

Loan Forgiveness Report Highlights Problems of Educational Debt 1523

A recent survey conducted by NLADA and the National Association for Public Interest Law reveals that many public interest legal employers confront both recruitment and retention problems that they attribute to recent law graduates' staggering debt burdens.

Negotiating Tactics for Legal Services Lawyers 858

Legal services and public interest lawyers probably spend as much time negotiating on behalf of their clients as they do litigating cases; this article catalogs several successful negotiating tactics.

Paralegal's Guide to Veterans' Administration Advocacy 236

This article, especially intended for use by paralegals who have contact with clients who are not asking about VA benefits, discusses the process for initially obtaining benefits and briefly outlines the claims and appeals process. In many cases, particularly those in which the family that is headed by a veteran is not intact, the person seeking representation may be asking about other benefits, while in fact he or she may be eligible for substantial VA benefits.

A Short Review of Past Poverty Law Advocacy 1514

This article, part one of a two-part article on poverty law developments and options for the 1990s, provides a brief review of major trends in poverty law advocacy, from the inception of legal aid to the present, in an effort to put in context and set the framework for a discussion of several critical trends in advocacy likely to occur in the coming decade.

State Support: An Integral Part of Legal Services Delivery 834

State support can be provided in an independent center, a statewide project, a specialized unit in a field program, or as a percentage of a field attorney's time; this article provides a short history of the development of state support and an overview of the types of functions that state support can provide.

A Survey of Employee Benefits in Legal Services 34

This article presents the results of the Legal Services Nationwide Employees Benefits Organization's 1987 survey of fringe benefits provided by various legal services programs across the country.

What's Gone Right—And Wrong—For Justice Centers 48

Despite early predictions that community justice centers would substantially reduce court caseloads, most programs are not overly used and, in some instances, disputants seem reluctant to participate, even with the strong encouragement of program personnel. This article also includes interviews with justice center directors.

BANKRUPTCY

Consumer Law for Housing Lawyers: Bankruptcy 699

The bankruptcy forum offers clients powerful remedies; this article sketches some possibilities for the use of bankruptcy law to deal with housing problems.

The United States Bankruptcy Code: An Analysis of Legislative Reform and Judicial Interpretation 1268

This article analyzes current changes in bankruptcy law generated by the 1978 Bankruptcy Act and the Bankruptcy Amendments Acts of 1984 and 1986, discussing the direction in which the law is generally headed and highlighting specific pitfalls that practitioners should seek to avoid.

CIVIL PROCEDURE/ADMINISTRATIVE LAW

Administrative Finality in Disability Proceedings 147

This column provides an overview of some of the issues that arise when res judicata, collateral estoppel, or the reopening regulations are used to bind a claimant to a prior unfavorable finding.

Emerging Issues in Civil Practice: Confidentiality of Public Assistance Records 540

A review of applicable statutes and case law in jurisdictions around the country establishes that no state has enacted or enforced a blanket privilege entitling an agency to refuse disclosure of public assistance records in litigation; this article reviews reported decisions on this issue.

That Was Then, This Is Now: Reviewing the Supreme Court's Eleventh Amendment Activities 966

Four recent Supreme Court decisions interpreting the eleventh amendment and the amendment's effect on section 1983 claims against state officials confirm a shift toward judicial deference to state sovereignty and state governments.

CIVIL RIGHTS

Beyond Heat, Light, and Ventilation: Using an Environmental Expert on Behalf of Institutionalized Clients 535

Legal services attorneys often represent clients who are confined in various kinds of institutions, including prisons, jails, juvenile training schools and detention centers, camps, ranches, mental health facilities, nursing homes, and psychiatric institutions; an indispensable part of such litigation is expert testimony on the conditions of confinement and on their effect on the health and safety of the institutionalized population.

Combatting Pregnancy Discrimination in Access to Substance Abuse Treatment for Low-Income Women 21

Basic civil rights doctrines can be used to challenge the exclusion from medical treatment of pregnant, indigent women, and legal theories of sex discrimination can be adapted to eliminate sex-based barriers to treatment.

Legal Issues: Drug Testing of Postpartum Women and Newborns as the Basis for Civil and Criminal Proceedings 1406

The growing practice of testing pregnant women for drug use and instituting neglect proceedings or criminal prosecution based on those results has created a serious health and civil liberties crisis; this article is designed to help practitioners think about affirmative ways to respond to some of the problems raised by drug testing of pregnant and postpartum women.

COMPUTER & RESEARCH NEWS

Computer Search Results 36, 158, 268, 552, 704, 980, 1292, 1421, 1544

These are the results of computer searches performed by the Clearinghouse Computer-Assisted Research Project. They are available to LSC-funded programs free of charge and can be ordered using the number following the description of the results in the *Clearinghouse Review,* in the same manner as any other Clearinghouse document.

Delivering Legal Services with Computer-Based Practice Systems 1532

See ATTORNEYS/LEGAL SERVICES for article summary.

CONSUMER

Consumer and Energy Law Developments 1180

In consumer law this year, the Truth in Lending Act was expanded to provide disclosure and substantive requirements for home equity loans, and courts upheld consumer claims on hidden finance charges and insurance packing; in energy law, as oil overcharge funds declined drastically, more and more states sought ways to target existing resources better and to marshal additional resources toward energy assistance and weatherization efforts.

Consumer Law for the New Legal Services Practitioner 877

This article discusses how to analyze a consumer credit transaction and describes consumer protection legislation, including the Equal Credit Opportunity Act, Fair Credit Reporting Act, unfair and deceptive practices acts, Truth in Lending Act, and Fair Debt Collection Practices Act.

State Health Insurance Programs for the Uninsured Poor 141

The traditional approach to providing medical care for the poor has been through numerous fragmented and uncoordinated state, federal, and local government programs; this column reviews major state initiatives to develop comprehensive health insurance programs for all state residents and discusses issues that must be addressed in the development of a health insurance plan for the uninsured poor.

DOMESTIC RELATIONS

Child Support Enforcement in 1989 1101

This article highlights some of the recent major developments in child support enforcement in four key areas: establishing paternity, using guidelines in setting support awards, modifying awards, and imposing income withholding.

The Economic Implications of Divorce for Older Women 488

Studies have shown that, in the first year of divorce, women generally suffer a 73-percent reduction in their standard of living, while men enjoy a 42-percent increase; older housewives and women who were married longer experience the greatest downward mobility and the greatest relative deprivation after divorce.

Family Law Developments 1191

Although battered women have encountered a backlash in order of protection cases this year, state battered women's laws have continued to withstand constitutional challenge; the past year also saw significant developments in child support and child support enforcement as federal legislation began to be implemented.

Poor Joshua!: The State's Responsibility to Protect Children from Abuse 525

In *DeShaney v. Winnebago County Department of Social Services,* the Supreme Court held that the failure of a county social services agency to protect a young boy from his father's brutality over two years did not violate the child's constitutional rights; this article surveys the various types of cases affected by this opinion and suggests possible litigation strategies in light of *DeShaney.*

Representing Parents in Termination of Parental Rights Proceedings 849

Parents have a fundamental right to the care, custody, and management of their children; this article provides some suggestions for attorneys with little or no experience in termination of parental rights proceedings, with special emphasis on issues that arise when the client is mentally disabled.

ECONOMIC DEVELOPMENT

Community Economic Development at Work 1164

The year 1989 marked significant revisions in the Community Reinvestment Act and the Home Mortgage Disclosure Act; these changes will result in access by individuals and organizations to additional information about the level of investment by financial institutions in their communities and will improve the opportunities for nonprofit organizations to develop needed affordable housing.

EDUCATION

Introduction to Education Law 883

Many education policies and practices still deprive indigent students of an adequate education and often doubly burden poor students who are also members of minority groups or are disabled and need special education in the classroom.

Loan Forgiveness Report Highlights Problems of Educational Debt 1523

See ATTORNEYS/LEGAL SERVICES for article summary.

EMPLOYMENT

Employment Law Developments 1116

During its 1988-89 Term, the Supreme Court decided several cases affecting employment law, including a series of Title VII employment discrimination cases, as well as cases involving a municipal affirmative action plan, the use of section 1981 as a means of combatting employment discrimination, the range of possible defendants under section 1983, employee drug testing, and vacation benefits and ERISA.

The Supreme Court and Employment Discrimination 1222

This article analyzes nine recent employment discrimination cases decided by the Supreme Court; the Court has eliminated several key procedural and substantive protections for plaintiffs with the result that this area of the law is no longer settled or predictable.

FOOD PROGRAMS

Introduction to the Food Stamp Program 870

This article provides an overview of the structure of the Food Stamp Program, eligibility and the application process, income and benefit calculations, resources, work requirements, and overissuances and fraud.

Securing Access to the Food Stamp Program for the Non-English-Speaking Poor 954

Federal food stamp regulations provide ample support for requiring agencies to provide bilingual assistance to non-English-speaking persons regardless of their numbers in the community.

FREEDOM OF INFORMATION

Emerging Issues in Civil Practice: Confidentiality of Public Assistance Records 540

See CIVIL PROCEDURE/ADMINISTRATIVE LAW for article summary.

HANDICAPPED PERSONS

Congressional Developments in Disability Law 1172

In 1988, numerous federal bills were passed that will enable deaf individuals to achieve equality and independence in the mainstream of society; the Americans with Disabilities Act, if passed, will ban discrimination against disabled persons in employment, public accommodations, public services, transportation, and telecommunications by private businesses and state and local governments.

The Fair Housing Amendments Act of 1988: What It Means for People with Mental Disabilities 128

The Fair Housing Amendments Act of 1988 makes it unlawful for public and private entities to discriminate against people with disabilities in the sale, rental, or advertising of dwellings, in the provision of brokerage services, in the availability of residential real estate transactions, in the implementation of land use and zoning laws, and in the enforcement of restrictive covenants and deeds; this article analyzes the Act as it applies to this newly protected class.

Statewide Review of Guardianships: The California and Maryland Approaches 426

Guardianship review should serve two basic objectives assuring that the least restrictive arrangement is being used to protect the ward's health, safety, and welfare, and assuring that guardians are not abusing or neglecting the ward and/or the ward's assets. This article describes statewide guardianship review systems instituted in California and Maryland and compares their quite different approaches to protecting the rights and meeting the needs of elderly and disabled wards.

HEALTH

Combatting Pregnancy Discrimination in Access to Substance Abuse Treatment for Low-Income Women 21

Basic civil rights doctrines can be used to challenge the exclusion from medical treatment of pregnant, indigent women, and legal theories of sex discrimination can be adapted to eliminate sex-based barriers to treatment.

Due Process and Indigent Health Care: Handles to the Front Door 1422

Enforcement of due process rights can be an important first step toward improving health care coverage for the many legal services clients who are ineligible for Medicaid.

Health Care for the Poor 1072

In 1989, HCFA and the states began implementing Medicaid expansions mandated by the Medicare Catastrophic Coverage Act, Hill-Burton administrative decisions adverse to clients continued almost unabated, several states passed or implemented initiatives to protect the medically uninsured, and courts expanded protection for indigent patients under the federal antidumping statute.

Health Care Rights of the Poor: An Introduction 825

This article covers the primary reimbursement sources for health care—Medicaid, Medicare, private insurance, and state and county indigent care programs—as well as protection of access to health care provided by the Hill-Burton program, emergency room law, and civil rights laws.

Implementation of the Medicaid Provisions of the Medicare Catastrophic Coverage Act 370

This article addresses the Medicaid changes made by MCCA that primarily affect the aged, blind, and disabled, including the new transfer of assets penalties; spousal impoverishment and the division of property and income for institutionalized persons and their spouses; the Medicaid buy-in of Medicare premiums, deductibles, and coinsurance for the poor; and the mandated disregard of medical expenses for nursing home residents.

Legal Rights to Health Care for Persons with AIDS 30

This bilingual English/Spanish brochure, prepared by the National Health Law Program, provides information on basic health care rights and health care programs that may assist clients with AIDS.

HEALTH

Legal Support to the Long-Term Care Ombudsman Program: A Practical Guide 418

See ATTORNEYS/LEGAL SERVICES for article summary.

Legislative Trends in Nonjudicial Surrogate Health Care Decision Making 422

Thirty-one states and the District of Columbia have at least one of three general types of statutes that authorize surrogate health care decision making without a judicial determination that the patient cannot make his or her own decisions: the durable power of attorney, a health care/family consent statute, and a living will law allowing proxy decision making.

Level of Care for Medicaid Nursing Homes to Be Eliminated by October 1, 1990: What Lies Ahead 959

On October 1, 1990, two levels of care under Medicaid—skilled nursing care and intermediate care—will be merged into a single level of care called nursing facility services.

Medicaid Liens and Estate Recoveries—More or Less? 544

Legal services attorneys should be aware of the current impact of liens and Medicaid recovery programs on their clients and assess the adverse effects, if any, that more aggressive recovery programs will have on elderly clients seeking Medicaid coverage for nursing home care.

Medical Treatment for the Elderly and Disabled 1154

Cases involving eligibility of children with disabilities for SSI benefits and a guardian's authority to withhold nutrition and hydration from a permanently disabled but not terminally ill ward are currently pending before the Supreme Court; state courts continue to examine the rights of competent and incompetent patients to forgo life-sustaining treatment.

Medicare Part B Appeals—And You Thought the System Was Fixed 384

Prior to January 1987, Medicare beneficiaries who disagreed with a Part B coverage determination could only appeal to the carrier for review and, subsequently, could request a carrier fair hearing only if the amount in controversy was $100 or more; changes in the law have allowed beneficiaries with disputes of $500 or more to proceed to a hearing before an ALJ and those with disputes of $1,000 or more to proceed to federal district courts.

The New Medicare SNF Benefit: Protecting the Intended Beneficiaries 404

This article reviews relevant statutes, regulations, HCFA policy issuances, and case law concerning the Medicare skilled nursing facility benefit in an effort to provide advocates with some tools to protect the rights of nursing home residents while helping them receive all benefits to which they are entitled.

Omnibus Budget Reconciliation Act of 1989: Legislative Changes in Medicaid 1502

This article highlights and discusses OBRA-89 Medicaid provisions that will benefit low-income clients, including expanded eligibility for children and pregnant women, adequate Medicaid provider rates, the Medicare buy-in and limitations on charges for Medicaid-eligible Medicare beneficiaries, and nursing home reform.

State Health Insurance Programs for the Uninsured Poor 141

See CONSUMER for article summary.

HOUSING

Consumer Law for Housing Lawyers: Bankruptcy 699

See BANKRUPTCY for article summary.

The Fair Housing Amendments Act of 1988: What It Means for People with Mental Disabilities 128

See HANDICAPPED PERSONS for article summary.

Federal Housing Law Developments 1091

Tenants achieved significant victories last year in cases challenging denials of applications for tenancy due to marital status, the definition of "income" for purposes of the Brooke Amendment, rent recertification procedures following a decrease in income, evictions, and landlords' failure to make repairs.

Home Equity Conversion Programs: A Housing Option for the House-Rich, Cash-Poor Elderly 481

When Congress passed the Home Equity Conversion Mortgage Insurance Demonstration in 1988, it breathed new life into home equity conversion plans as a viable option for elderly homeowners who wish to convert their home equity into additional income; this article explores the impact of home equity conversion on low-income clients and discusses the legal issues that advocates must explore when counseling elderly clients and their families about this housing option.

Homeless: A Dialogue on Welfare and Housing Strategies 104

At the 1988 NLADA Substantive Law Conference, Barbara Sard, of Greater Boston Legal Services, Florence Roisman, of the National Housing Law Project, and Chester Hartman, of the Institute for Policy Studies, participated in a dialogue to review different housing and welfare advocacy strategies being pursued on behalf of homeless clients.

Homeless: A Local View of the McKinney Act 116

In 1987 and 1988, the Illinois State Support Center studied the implementation of McKinney Act programs for the homeless in Chicago. This article summarizes the Center's findings.

Practicing Community Corporate Law 889

This article suggests ways in which legal services attorneys might represent community organizations to promote affordable housing and community economic development and to prevent displacement of low-income communities.

Separate and Unequal: The Root and Branch of Public Housing Segregation 666

Many low-income African-American families receiving federal housing assistance do not receive the minimum decent, safe, and sanitary housing that was the objective of the law establishing the various housing programs; this article argues that if low-income housing advocates do not seek relief from the adverse housing conditions suffered by clients as the result of deliberate racial discrimination, then clients will continue to suffer from both the absolute deprivations of adverse housing conditions and the gross inequality of those conditions.

The Vermont Housing and Conservation Trust Fund: A Unique Approach to Developing Affordable Housing 1275

The Vermont Housing and Conservation Trust Fund Act is a legislative initiative that established a Citizen Board to provide grants and loans to develop affordable housing for low-income Vermonters and to protect environmentally and agriculturally important land.

IMMIGRATION

Alien Eligibility Under LSC Restrictions 822

The Legal Services Corporation restricts the use of LSC funds for the representation of certain categories of aliens; this article provides a summary of the current restrictions.

The Five-Year Restriction on Amnesty Alien Eligibility for Public Benefits 1286

The Attorney General has recently promulgated his final list of federal programs from which newly legalized aliens are disqualified; the list raises additional questions regarding implementation of the five-year ban.

An Outline of Immigration Law 814

The Immigration and Naturalization Service decides whether a person is entitled to enter the United States and how long that person can remain here; this article provides an overview of the process of obtaining immigration benefits and of defenses to deportation.

JUVENILES

Beyond Heat, Light, and Ventilation: Using an Environmental Expert on Behalf of Institutionalized Clients 535

See CIVIL RIGHTS for article summary.

Poor Joshua!: The State's Responsibility to Protect Children from Abuse 525

See DOMESTIC RELATIONS for article summary.

Youth Law Developments 1145

During 1989, the Supreme Court held that children not in the custody of the state do not have a constitutional claim against social workers for failing to protect them from abuse, and, in the area of foster care, state and federal courts increasingly began to require protective services agencies to comply with reasonable efforts requirements of the Adoption Assistance and Child Welfare Act.

MENTAL HEALTH

Advocating for Freedom: The Community Placement of Elders from State Psychiatric Hospitals 444

Despite deinstitutionalization policies of the late 1960s and 1970s, a disproportionately large percentage of those who remain confined in mental institutions—approximately 23 percent—are elderly. Apparently, older people with chronic mental illness are misperceived as being unable to respond to new opportunities and less likely to benefit from community life.

Beyond Heat, Light, and Ventilation: Using an Environmental Expert on Behalf of Institutionalized Clients 535

See CIVIL RIGHTS for article summary.

Mental Disability Law Developments 1214

Two state supreme courts have recently recognized the statutory right to community services of people with mental disabilities, while litigation in federal courts continues to result in reductions in institutional populations; there also has been considerable litigation concerning the validity of local health, safety, zoning, and land use regulations since the Fair Housing Amendments Act became effective.

MIGRANTS

Migrant Law Developments 1202

This article covers recent litigation brought under the Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act, as well as developments with respect to the use of pesticides, occupational safety and health, income transfer programs, the temporary foreign worker program, migrant education, and other issues affecting the farmworker community.

NATIVE AMERICANS

How to Identify an Indian Law Case 862

When a client is identified as an Indian or of Indian ancestry, he or she may be entitled to special Indian rights; alternatively, a non-Indian client may have been involved in a transaction with an Indian, also making Indian law an issue.

PRISONS

Beyond Heat, Light, and Ventilation: Using an Environmental Expert on Behalf of Institutionalized Clients 535

See CIVIL RIGHTS for article summary.

Prison Law Developments 1111

Our prisons and jails are severely overcrowded and the consequences of this overcrowding—increased brutality, structural deterioration, intolerable living conditions—are expected to continue to escalate without relief.

PUBLIC UTILITIES/ENERGY

State Law Remedies for Unlawful Disconnections of Utility Service 14

Advocates can use state laws against utilities in order to compensate clients for unlawful disconnections of utility service.

Statutes of Limitations: Barring the Delinquent Disconnection of Utility Services 3

When faced with the denial of service for a bill claimed by a utility to be unpaid from several years past, low-income clients rightly ask whether there is not some statute of repose; the answer, quite clearly, is maybe yes, maybe no.

SENIOR CITIZENS

Advocating for Freedom: The Community Placement of Elders from State Psychiatric Hospitals 444

See MENTAL HEALTH for article summary.

Developments in OBRA-87 Nursing Home Sanctions Requirements 1540

October 1, 1989, marked the deadline for state compliance with OBRA-87 nursing home requirements for intermediate sanctions; this column discusses issues related to state intermediate sanctions, with a look at several recent HCFA issuances bearing on the subject.

The Economic Implications of Divorce for Older Women 488

See DOMESTIC RELATIONS for article summary.

Elder Law Developments 1081

Although the bulk of the Medicare Catastrophic Coverage Act was repealed late last year, Congress also considered other legislation affecting the elderly, including proposals for a separate administrative review system for Medicare cases, changes in the reimbursement formula for Medicare-covered services, and amendments to COBRA.

The Elderly and the Federal Courts 1256

The population of older Americans has increased eight-fold since the turn of the century and has been growing since 1980 at a rate nearly three times that of the under-65 population; this article examines the role of the federal courts in dispute resolution and legal definition for a number of issues of right, entitlement, and status for senior citizens.

Estate Planning and Small Estates Probate for the Elderly: A New Role for the Private Bar 692

The organized bar is uniquely qualified to promote the use of estate planning and small estates probate procedures; this article describes a major shift in the way in which estates are distributed in this country and the effect of that shift on the public and the bar, and offers suggestions for a new private bar role in filling the rapidly increasing elderly population's estate planning and probate needs.

Finders, Keepers, Losers, Weepers: Conflict of Laws in Adult Guardianship Cases 1415

When it comes to determining which state has jurisdiction over an incapacitated or elderly person who is the subject of a guardianship proceeding, the courts have adopted both the "dividing in two" theory and the "finders keepers" theory of determining who has control.

A Holistic Approach to Elder Law: The Successful Marriage of Law and Social Work 450

See ATTORNEYS/LEGAL SERVICES for article summary.

Home Equity Conversion Programs: A Housing Option for the House-Rich, Cash-Poor Elderly 481

See HOUSING for article summary.

Implementation of the Medicaid Provisions of the Medicare Catastrophic Coverage Act 370

See HEALTH for article summary.

Income Tax Provisions Affecting the Elderly 389

Although sweeping federal income tax changes enacted by Congress in the Tax Reform Act of 1986 lowered income taxes for most Americans, they did not help the elderly; this article reviews federal income tax laws affecting seniors and discusses disparities in their treatment.

Legal Support to the Long-Term Care Ombudsman Program: A Practical Guide 418

See ATTORNEYS/LEGAL SERVICES for article summary.

Legislative Trends in Nonjudicial Surrogate Health Care Decision Making 422

See HEALTH for article summary.

Level of Care for Medicaid Nursing Homes to Be Eliminated by October 1, 1990: What Lies Ahead 959

See HEALTH for article summary.

Medicaid Liens and Estate Recoveries—More or Less? 544

See HEALTH for article summary.

Medicare Part B Appeals—And You Thought the System Was Fixed 384

See HEALTH for article summary.

Model Standards for Guardianship: Ensuring Quality Surrogate Decision Making Services 433

Concern about problems in the guardianship system and judicial oversight of the system prompted the Subcommittee on Housing and Consumer Interests of the House Select Committee on Aging to issue a report, prepared by the Center for Social Gerontology, proposing model standards for guardianship service programs.

The New Medicare SNF Benefit: Protecting the Intended Beneficiaries 404

See HEALTH for article summary.

The Older Americans Act: Current Problems and Developments 677

This article presents a smorgasbord of current Older Americans Act issues and problems of particular relevance to providers of Title III-B legal assistance, focusing on the nature of the Act, its implementing regulations, intrastate funding formula development, minority access to services, legal assistance program development, and the expanded ombudsman program.

Representative Payee Issues in the Social Security and Supplemental Security Income Programs 412

The representative payee program constitutes a protective services program superimposed on the traditional state guardianship, conservatorship, and competency laws, creating an extra layer of bureaucracy for beneficiaries to contend with and imposing a social service obligation on SSA; compounding this problem is the shortage of payees, particularly for homeless persons.

SSI Benefits for Individuals and Couples Who Own Excess Nonliquid Resources 474

Changes made in the statutory provisions and regulations governing the treatment of nonliquid resources in the SSI program have altered the method HHS uses to determine the value of excess nonliquid resources, how certain recipients who own excess nonliquid personal property can qualify for benefits during a grace period, and the circumstances under which individuals with excess real property can qualify for SSI.

The SSI Emergency Advance Payment System 478

Unlike other needs-based assistance programs, federal law establishes no specific time limits for processing SSI claims, and processing delays are much more difficult to challenge legally; consequently, advocates representing aged and disabled clients should be familiar with the sources of immediate financial assistance that may be available pending a determination on an SSI application.

SSI Resource Rules: An Update 465

It is possible, within the restrictions of the law, for a person to have assets significantly in excess of the general $2,000 limit and still be eligible for SSI; this article discusses the current status of the law on SSI resource issues.

Statewide Review of Guardianships: The California and Maryland Approaches 426

See HANDICAPPED PERSONS for article summary.

SOCIAL SECURITY/SSI

Administrative Finality in Disability Proceedings 147

See CIVIL PROCEDURE/ADMINISTRATIVE LAW for article summary.

Penalizing the Failure to Make Proper Credibility Findings in Disability Cases 945

The Eleventh Circuit's decision in *MacGregor v. Bowen* introduces a punitive standard for cases in which the Secretary of HHS has failed to make proper findings on the credibility of an applicant for social security disability benefits.

Representative Payee Issues in the Social Security and Supplemental Security Income Programs 412

See SENIOR CITIZENS for article summary.

SSI Benefits for Individuals and Couples Who Own Excess Nonliquid Resources 474

See SENIOR CITIZENS for article summary.

The SSI Emergency Advance Payment System 478

See SENIOR CITIZENS for article summary.

SSI Resource Rules: An Update 465
See SENIOR CITIZENS for article summary.

TAXATION

Income Tax Provisions Affecting the Elderly 389
See SENIOR CITIZENS for article summary.

UNEMPLOYMENT COMPENSATION

Unemployment Compensation and the First Amendment: Freedom of Religion Under *Frazee* 248
The Supreme Court's decision in *Frazee v. Illinois Department of Employment Security* significantly broadens previous protections laid down by the Court for claimants who become unemployed solely for religious reasons.

VETERANS/MILITARY

Paralegal's Guide to Veterans' Administration Advocacy 236
See ATTORNEYS/LEGAL SERVICES for article summary.

The Veterans' Judicial Review Act of 1988: Congress Introduces Courts and Attorneys to Veterans' Benefits Proceedings 506
The Veterans' Judicial Review Act, enacted November 18, 1988, introduces to attorneys and the federal judiciary a benefits system with which they are largely unfamiliar; this article describes the provisions of the Act and highlights important parts of the Act that appear to be ambiguous.

Veterans' Law Developments 1138
In 1989, Congress elevated the Veterans Administration to cabinet-level status, renaming the agency the Department of Veterans Affairs; in addition, major changes in the access of veterans to federal courts and to attorneys were brought about by implementation of the Veterans' Judicial Review Act, and disbursements through the Agent Orange Payment Program were begun.

WELFARE

AFDC: Favorable New Policies Exclude Certain Payments from Income and Resources 266
HHS has recently issued three favorable policies that exclude from income and resources for AFDC purposes (1) all contributions from SSI household members, with one exception, (2) contributions to the AFDC unit from other household members for their share of the household expenses, and (3) bona fide loans to AFDC applicants and recipients.

AFDC Program Rules for Advocates: An Overview 802
This article summarizes the basic rules of the AFDC program, including the legal framework, eligibility requirements, and application and appeals processes.

Current Anti-Poverty Programs: How Poor People Would Change Them 258
According to the results of a recent study of over 200 low-income people nationwide, poor people use a wide range of cash assistance, public service, and social insurance programs; when asked how they would change government programs, respondents focused primarily on welfare programs, saying benefits should be higher, eligibility rules more supportive of the working poor, and the delivery system more efficient and courteous.

An Explanation of Fill the Gap Budgeting as Used in the AFDC Program 153
A "fill the gap" budgeting system is created when a state establishes a payment limit that is less than the payment standard; the gap can be filled wholly or partially by countable nonassistance income. This column describes various fill the gap methods currently in use and the effects of fill the gap budgeting.

The Family Support Act of 1988: Molehill or Mountain, Retreat or Reform? 930
While the Family Support Act does include some generally beneficial Medicaid, child support, and child care provisions, with only one significant exception it does not ameliorate subpoverty benefit levels, restrictive administration, and coverage gaps; this article summarizes the Act's key provisions in an attempt to place them in context.

The Five-Year Restriction on Amnesty Alien Eligibility for Public Benefits 1286
See IMMIGRATION for article summary.

Welfare Law Developments 1128
Litigation during the past year addressed many issues in the AFDC program, including inadequate benefits, burdensome procedures, improper enforcement of child support cooperation requirements, and erroneous distribution of child support collections; in addition, the Family Support Act of 1988 made a variety of changes in welfare law.

FEDERAL REGISTER HIGHLIGHTS

ATTORNEYS/ LEGAL SERVICES

Income Levels for Individuals Eligible for Legal Assistance, 270

LSC Prohibition on Redistricting Activities, 1001

Restrictions on Legal Assistance to Aliens, 270

CIVIL PROCEDURE/ ADMINISTRATIVE LAW

Administrative Practice and Procedure, 719

Information from the Department of the Navy, 1478

U.S. Court Fees and Costs, 270

Updates and Changes to Publication Procedures, 43

CIVIL RIGHTS

Discrimination in USDA Programs, Activities, 719

Payment to Japanese-Americans for Civil Rights Violations, 1001

CONSUMER

ALJs as Presiding Officers in Rulemaking Proceedings, 270

Availability of Funds and Collection of Checks, 163, 1001

Community Reinvestment Act Policy Statement, 163

Consumer Price Index, 1478

Credit, Charge Card Disclosures, 1001

Delayed Disbursement of Teller's Checks, Cashier's Checks, 163

Designation of Low Income Status Under Federally Insured Credit Unions, 719

Electronic Fund Transfers, 43

Equal Credit Opportunity, 43

FDIC Compliance with Section 507 of Competitive Equality Banking Act, 574

Federal Home Loan Bank Board Nondiscrimination Requirements, 719

Fees for Federal Reserve Banks' Returned Checks, 163

FSLIC Applications Processing Guidelines, 1001

Funeral Industry Practices Trade Regulation Rule, 270

Home Equity Disclosure and Substantive Rules, 574

Interest Rate on Overdue Debts, 270

Odometer Disclosure Requirements, 43, 163, 270, 1001

Offset of Debts Owed the United States, 43

Partial Settlements of Matters in Adjudication, 270

Preemption Determination Under Regulation CC, 163

Preemption of Wisconsin Consumer Credit Law, 1478

Telephone Hearing Aid Compatibility, 574

TILA and Credit/Charge Card Disclosures, 163

Truth in Lending, 43

U.S. City Average All Items Consumer Price Index for All Urban Consumers, 43

CRIMINAL LAW AND PROCEDURE

Authorization of Federal Law Enforcement Officers to Request Issuance of Search Warrant, 270

Crime Act Victims Assistance Grant Program Guidelines, 574

Crime Victim Assistance Grants, 44

Drug Control and System Improvement Formula Grants, 1478

Federal Jurisdiction, 43

Notification of Miscellaneous Actions, 1365

Report on Systems for Identifying Felons Who Attempt to Purchase Firearms, 1365

Sentencing Guidelines for U.S. Courts, 574

Victims Compensation Program, 1577

DOMESTIC RELATIONS

Child Support Enforcement Program, 271

Cooperative Arrangements Under Child Support Enforcement Program, 719

Federal Personnel/Child Support Enforcement Records Matching Program, 270

Medical Support Enforcement, 44

Processing Garnishment Orders for Child Support and/or Alimony, 1577

Standards for Child Support Enforcement Program Operations, 1001

ECONOMIC DEVELOPMENT

Adjustment of Disaster Grant Amounts, 1365

Antiarson Program, 44

Census Advisory Committees of Minority Populations, 574

EDUCATION

Adult Education for the Homeless Program, 719

Adult Education Programs, 163, 1001

Bilingual Education, 1478

Bilingual Education and Minority Language Affairs, 719

Chapter 1 Program in Local Educational Agencies, 574

Civil Rights Compliance Responsibilities for Educational Institutions, 44

Community Development Work Study Program, 575, 719

Computer Matching Between the Selective Service and the Department of Education, 1365

Developmental Bilingual Education Program, 1577

Even Start Program, 163

Even Start Questions and Answers, 574

Field Readers for Student Literacy Program, 271

General Education Provisions Act Enforcement, 271

Income Contingent Loan Program, 1365

Intergovernmental Review of Department of Education Programs and Activities, 44

Magnet Schools Assistance Program, 271

National Defense and Perkins (National Direct) Student Loans, 719

National Diffusion Network (NDN), 574

Nondiscrimination in Federally Assisted Programs Enforcement Coordination, 1365

Pell Grant Program, 163, 271

Revision of Need Analysis Systems to Calculate Family Contributions for 1990-91 Academic Year, 574

Robert C. Byrd Honor Scholarship Program, 163

Schools and Teachers Program, Family-School Partnership Program, 271

State Educational Agency Program for Bilingual Education, 271

Student Assistance General Provisions, 1365

Student Assistance General Provisions, Guaranteed Student Loan (GSL), and PLUS Loan Programs, 574, 1001

Student Literacy Corps Projects, 1001

Student Loans, 1001

Talent Search Program, 719

Vocational Education Cooperative Demonstration Program, 574

Women's Educational Equity Act Program, 1002

ELECTIONS

Trade Association Solicitation, 164

EMPLOYMENT

Age Discrimination in Employment Act (ADEA) Tolling Provision, 1002

Air Quality, Chemical Substances, and Respiratory Protection Standards, 1577

Apprenticeship 2000 Executive Summary, 1002
Apprenticeship 2000 Initiative, 1002
Collective Bargaining Units in Health Care Industry, 271
Computer Matching Project Under FECA, 164
Department of Labor Regulations Implementing Freedom of Information Act (FOIA) and Executive Order 12600, 575
Determination of the Temporary or Permanent Nature of an Employer's Job Offer, 1365
Drug-Free Workplaces, 1002
Employment and Training Administration (ETA) Research, Evaluation, Pilot, Demonstration Procurement Plan, 1002
Employment and Training Services to Dislocated Workers, 1365
Executive Summary, 1577
Field-Initiated Research and Demonstration Grants Under the JTPA, 1478
Financial Process for Revised Trade Adjustment Assistance for Workers Program, 1002
Income Verification and Child Support Enforcement, 164
Industry Air Contaminants, 1002
Job Training Partnership Act, 1478
JTPA Contract Requirements, 44
"Low Income Levels" for Health Careers Opportunity Program, 271
National Reserve Grants, 1478
New Worker Adjustment Program, 44
Notices, 1577
Occupational Exposure to Asbestos, 720, 1577
Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite, 720
Occupational Exposure to Formaldehyde, 1002
Occupational Exposure to Lead, 719
Occupational Safety and Health, 720
Personal Protective Equipment for General Industry, 1002
Postal Service's Matching Program for Alabama, 575
Preliminary Planning Estimates Program, 1577
Reallotment of Title III Funds, 1366, 1478
Renewal of Job Corps Advisory Committee, 720
Reporting, Employment Requirements for Employers of Seasonal Agricultural Services Workers, 44
State Designations of Entities as Dislocated Worker Units Under Title III, 1365
Trade Adjustment Assistance for Workers, 164, 575
Training and Employment Guidance Letter No. 6-88, 271
Unfair Labor Practices Hearings, 720
Violations of Employment-Related Laws, 164
Wagner-Peyser Final Planning Estimates, 271
Worker Adjustment and Retraining Notification, 164, 271

ENVIRONMENTAL LAW

Administrative Penalty Procedures, 575
Areas Closed Due to Contamination by Toxic Substances, 164
Asbestos Commerce Prohibitions, 720
Asbestos Training Courses, Tests, Accredited Laboratories, 44
Asbestos-Containing Materials in Schools, 271, 575, 1002
Availability of Medical Waste Report, 1578
Implementation Schedule for FIFRA, 271
Nonconfidentiality of Certain Information, 1577
Notice Requirements for Citizens' Suits Under Safe Drinking Water Act, 271
Permanent Relocation Assistance, 164
Procedures for Rulemaking under Section 6 of Toxic Substances Control Act (TSCA), 575
Quantitative Links Between Changes in Atmospheric Composition and Climate Change, 575
Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, 164

FOOD PROGRAMS

Accountability in National School Lunch Program, 164
Administrative Improvement, Simplification Provisions from Hunger Prevention Act of 1988, 575
Availability of Surplus Commodities for FY 1990, 1366
Categorical Eligibility for Certain Public Assistance and SSI Recipients, 575
Child Care Food Program, 720
Child Care Food Program, Adult Day Care Centers, 164
Child Care Food Program Reimbursable Meals/Supplements, 576
Child Nutrition Programs, 271
Civil Money Penalties in Lieu of Permanent Disqualification for Trafficking, 271
Cooperation Between FDA and USDA's Extension Service, 272
Coordination Between Center for Food Safety and Applied Nutrition and Head Start, 272
Disaster Assistance Act, Hunger Prevention Act, Technical Corrections Under Food Stamp Program, 575
Donation of Food, 1366
Elderly Poverty Income Guidelines for Commodity Supplemental Food Program, 272
Electronic Benefit Transfer Alternative Issuance Demonstration Project, 1479
Food Cost-Cutting Systems for Special Supplemental Food Program for Women, Infants, and Children (WIC), 575
Food Distribution Program, 44
Food Stamp Issuance and Issuance Liability Rule, 1479
Income Exclusion of Certain Charitable Donations, 272
Maximum Allotments and Income Eligibility Standards and Deductions, 1578
Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands, 1578
National School Lunch, Special Milk, and School Breakfast Programs, 720
Nondiscretionary Benefit-Related Provisions, 1578
Performance-Based Funding for Employment and Training (E&T) Programs, 576
Poverty Income Guidelines for Special Supplemental Food Program for Women, Infants, Children, 272
Program Reimbursement for 1990, 1578
Quality Control Arbitration Process, 575
Quality Control Technical Amendments, 1578
Renaming of Child Care Food Program, 1578
School Breakfast Program, 164
Special Supplemental Food Program for Women, Infants, Children, and Homeless Individuals, 1478

FREEDOM OF INFORMATION

Freedom of Information Act (FOIA) Requests, Predisclosure Notification for Business Records, 576

GOVERNMENT AND GOVERNMENTAL SERVICES

Agencies' Use of Privacy Act Records, 576
Agency Form Under Review by the Office of Management and Budget (OMB), 720
Availability of Federal Register and Code of Federal Regulations at Libraries, 272
Budget Rescissions and Deferrals, 1578
Claims Against the U.S, 576
Computer Matching Programs, 720
Cumulative Report on Rescissions and Deferrals, 272, 1479, 1578
Disaster Assistance, 576, 1578
Disposal of Surplus Federal Real Property, 164
Emergency Deficit Control Measures for FY 1990, 1366
Extension of Existing Computer Matching Programs, 1002

Fee Structure for Age Search and Citizenship Information, 720
Final Office of Management and Budget (OMB) Sequester Report for FY 1990, 1479
Final Sequestration Report for FY 1990, 1366
Graduated Mobilization Response, 1578
Individual and Family Grant (IFG) Program, 576
OMB Cumulative Report on Rescissions and Deferrals, 164
1990 Census Cutoff Dates for Recognition of Boundary Changes, 1366
Processing and Settlement of Administrative Claims, 1366
Production, Procedures of Material/Information by FEMA Employees, 164
Service Annual Survey Determination, 1366
Supplement to the Guide to Record Retention Requirements in the C.F.R, 1578
Unified Agenda of Federal Regulations, 272, 1366

HANDICAPPED PERSONS

Assistance to States for Education of Handicapped Children, 272
Developmental Disabilities Assistance, 165
Early Intervention Program for Infants, Toddlers with Handicaps, 576
Education of Handicapped Children, 1479
Education Programs for the Handicapped, 1003
Educational Media Research, Production, Distribution, and Training Program, 272
Employment of Workers with Disabilities Under Special Certificates, 1002
Enforcement of Nondiscrimination on the Basis of Handicap in EEOC Programs, 576
Enforcement of Nondiscrimination on the Basis of Handicap in Federally Assisted Programs, 44
Information Collection Requirements Under Rehabilitation Act of 1973, 1003
National Institute on Disability and Rehabilitation Research (NIDRR) Programs, 720
Projects with Industry Program (PWI), 1002
Rehabilitation Training Program, 576
Research Activities Under National Institute on Disability and Rehabilitation Research, 272
Research in Education of the Handicapped Program, 165
Section 202 Loans for Housing for Nonelderly Handicapped Families and Individuals, 576
Services for Deaf-Blind Children and Youth Program, 272, 1479
Special Education Programs, 720
Special Projects for Vocational Rehabilitation, Employment for Individuals with Severe Handicaps, 165
State Vocational Rehabilitation Unit In-Service Training Program, 44
Technology-Related Assistance for Individuals with Disabilities, 1002
Training and Employment Models for Youth with Handicaps, 1002
Uniform Accessibility Standards, 165

HEALTH

A Guide to Principles and Methods of Analyzing Health and Environmental Risks, 1367
Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, 1367
Adolescent Family Life Demonstration Projects, 1480
AIDS Drug Reimbursement Program, 165
AIDS Regional Education and Training Centers Program, 1003
Alcohol, Drug Abuse, and Mental Health Services (ADMS) Block Grant State Waiver Guidelines, 577
Allied Health Project Grants and Demonstration Grants, 1579
Annual Report of the Federal Advisory Committee, 1367
Carrier Bonuses for Increasing Physicians' Participation or Payments, 1579
Computer Matching Program, 721
Cost Effectiveness of Furnishing Therapeutic Shoes to Medicare Beneficiaries, 577
Current List of Covered Surgical Procedures for Ambulatory Surgical Centers (ASC), 577
Current List of Laboratories Meeting Minimum Standards for Urine Drug Testing for Federal Agencies, 577
Delegation of Authority in Health Services Regarding AIDS, 273
Deleted System of Records, 1479
Developmental Disabilities Program, 1367
Drug Abuse Treatment Waiting List Reduction Grant Program, 45
Drug Bill Processor Records on Medicare Prescription Drug Beneficiaries, 1003
Education Programs in Occupational Safety and Health, 577
Establishment of AIDS Program Advisory Committee, 1367
Federal Assistance for Rural Hospitals, 45
Filing of Annual Report of Federal Advisory Committee, 1479
Forms Submitted for Clearance, 1579
Group Homes for Recovering Substance Abusers Program Guidelines, 272
HCFA's Quarterly Listing of Program Issuances, 165
HCFA's Report of New System of Records, 165
HCFA's System of Records, 45
Health Care Financing Administration's (HCFA's) New System of Records, 1003
Health Care Financing Administration's (HCFA's) Statement of Organization, Functions, Delegations of Authority, 576
HIV Clinical Trial Data Bank, 721
HIV Services Planning Program Grants, 45, 272
Home Health Agencies, 1003
Human Resource Development Program, 1579
Inpatient Hospital Deductible for 1990, 1366
Integration of Health and Mental Health Care Worker Training in HIV Infection and AIDS, 1579
Legislative Changes Concerning Payment to Hospitals for Federal FY 1990, 1480
Limits on Home Health Agency Costs, 720
Medicaid Eligibility Based on Disability, 1479
Medicaid Management Information System, 1579
Medicare and Medicaid Fraud and Abuse, 45
Medicare as Secondary Payer and Medicare Recovery Against Third Parties, 1366, 1579
Medicare Claims Payment Cycle, 1479
Medicare Coverage of Home Intravenous (IV) Drug Therapy Services, 1003
Medicare Economic Index, 1579
Medicare Inpatient Hospital Prospective Payment System, 1003
Medicare National Coverage Decisions, 1003
Medicare Part A Premium, 1479
Medicare Swing-Bed Program Changes, 1003
Medicare's Data Users Conference, 165
Medicare's Peer Review Organizations, 45
Minority Institutions Research Development Program, 272
Monthly Actuarial Rates, Supplementary Medical Insurance Premium rate, and Catastrophic Coverage Premium, 1367
National Institutes of Health's Statement of Organization, Functions, Delegations of Authority, 576
National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners, 1367
New System of Records, 1579
Office of Human Development Services' Statement of Organization, Functions, Delegations of Authority, 577
Organ Procurement and Transplantation Network Rules and Membership Actions, 1479
Physician Involvement in Physical Therapy and Speech Pathology Services, 1003
Physician Performance Standard Rate of Increase, 1480
Privacy Act of 1974 System of Records, 720

Public Information Collection Requirements, 272
Publication of Court Orders, 1367
Quarterly Listing of Program Issuances, 577, 1003
Relationship Between Human Exposure to Hazardous Substances in Environment and Adverse Health Outcomes, 577
Requirements for Long-Term Care Facilities, 1480
Revised Definition of Mechanized Claims Processing and Information Retrieval System, 1367
Revision of Requirements for Content of AIDS-Related Materials, 45
Skilled Nursing Facility Coinsurance Amount for 1990, 1367
Statement of Organization, Functions, and Delegation of Authority, 1579
Substance Abuse Prevention Conference Grant, 45
System of Records Modification, 1579
Systems of Records, 1366
Tabulation of Natality Vital Statistics Data by Race of Mother, 1003
Targeting Information for Income and Eligibility Verification System, 45
Third-Party Liability Programs, 1578
Uniform Cost Reporting System for Hospitals Under Medicare, 1003

HOUSING

Adjustment for Damage or Neglect, 721
Adverse Decisions and Administrative Appeals, 1580
Annual Interest for Section 202 Loans, 1480
Comprehensive Homeless Assistance Plans, 1004, 1368, 1480
Comprehensive Improvement Assistance Program, 45
Delegation of Authority, 1579
Delegation of Authority for Community Planning and Development, 1580
Delegation of Authority Under Fair Housing Act, 165
Disclosure and Verification of Social Security Numbers and Employer Identification Numbers, 1368
Emergency Food and Shelter Program, 721
Emergency Shelter Grants Program, 165, 1368, 1480
Establishment of an Advisory Commission, 1580
Fair Housing, 1481
Fair Housing Advertising, Poster Requirements, 165
Fair Housing Complaint Processing, 1580
Fair Housing Initiative Program, 1481
Fair Housing Program, 273
Fair Market Rent Schedules, 1368
Fair Market Rents for New Construction and Substantial Rehabilitation, 1368
Federally Mandated Exclusions from Income, 1368
Flexible Subsidy Program, 45, 1480
FmHA Appraisal of Single-Family Residential Property, 45
Guaranteed Farmer Program Loan Regulations, 1580
Home Loan Creditors' Responsibilities, 1580
Home Mortgage Disclosure, 1480
Homeownership Counseling, 273
Housing Preservation Grant, 1580
HUD Community Development Block Grant Regulations and Fair Housing Amendments Act, 1004
HUD's Performance Funding System's Insurance Costs, 165
HUD's System of Records, 273
Information Collection Requirements, 45
Interest, Penalties, and Administrative Costs, 1369
Limitations on Special Projects Expenditures, 1003
Management and Supervision of Multiple-Family Housing Borrowers and Grant Recipients, 1368
Manufactured Homes in Existing Manufactured Home Parks and Subdivisions, 1368
Manufactured Homes in Existing Mobile Home Parks or Subdivisions, 1368
Mortgage Insurance, 1579
Nehemiah Housing Opportunity (NHOP) Grants Program, 577
Nondiscrimination, 1580
Preference for Elderly, "Near Elderly" Families in Public Housing Projects for Elderly Families, 273
Privacy Act of 1974, 1580
Prohibition on Use of Federal Funds for Lobbying, 1480
Prohibitions on Uniform Development Action Grants for Business Relocations, 577
Public Housing Resident Management Technical Assistance, 273
Public/Indian Housing Agencies' Insurance Costs Under Performance Funding System (PFS), 273
Removal of Rent Increase Condition, 1368
Rental Rehabilitation Grants, 1369, 1481
Revisions to Public Housing Comprehensive Improvement Assistance Program (CIAP), 1481
Rural Rental Housing Displacement, 1580
Scope, Nature of FHA Appraisals and Property Inspections, 273
Section 8 Contract Rent Adjustment Factors, 1480
Section 8 Fair Market Rents, 1480
Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals, 1481
Section 202 Loans for Housing the Elderly, 273
Significant Coinsurance Program Updates, 1580
Single Family Mortgage Instruments, 721
Single-Family Property Disposition Homeless Initiative, 1579
Single Room Occupancy Dwellings for Homeless Individuals, 1369
SSI Program for Permanent Housing for the Homeless, 721
Supplemental Assistance for Facilities to Assist the Homeless, 1368
Supplemental Facilities to Assist the Homeless, 1480
Supportive Housing Demonstration Program, 165, 1369, 1481
Tax-Exempt Construction Financing for Turnkey Public Housing Development Projects, 1368
Technical Amendments to Title I Property Improvement and Manufactured Home Loans Regulations, 165
Termination of Public Housing Tenancy for Drug-Related Criminal Activity, 273
Title I Property Improvement and Manufactured Home Loans, 1004
Unauthorized Section 504 Grants, 721
Uniform Relocation Assistance, 45
Unused HUD Property, 45, 165, 273, 577, 721, 1004, 1367, 1480, 1580
Urban Development Action Grants Project Selection System, 577
Urban Development Action Grants (UDAG) Program's Selection System, 721
Use of Certification Statements by FmHA, 721

IMMIGRATION

Adjustment of Status for Aliens, 166
Adjustment of Status for Certain Aliens, 722
Adjustment of Status of Replenishment Agricultural Workers, 722
Adjustment of Status to Permanent Resident, 721
Adjustment to Permanent Resident Status, 1481
Administrative Procedure in Cases Regarding Immigration-Related Employment Practices, 1481
Admission/Adjustment of Status of Replenishment Agricultural Workers (RAWs), 1004
Applicant Processing for the Legalization Program, 721
Availability of Service Records, 1481
Classifying Alien as Immediate Relative of U.S. Citizen or as Preference Immigrant, 1004
Correction to Alien Legalization Final Rules, 165
Criteria for Filing Petition for Alien Relative, 1004
Delegation of Authority, 1581

Fee Review, 1369
Final Agreement Between EEOC and Office of Special Counsel for Immigration Related Unfair Employment Practices, 1004
Immigration Forms, 1369
INS Immigration User Fee Review, 1369
INS/EOIR Fee Schedule, 166
Interview for Adjustment of Status to That of Person Admitted for Permanent Residence, 1369
Legalized Aliens' Disqualification from Benefits, 1481
New Employment Authorization Document, 1581
New Version of Resident Card I-551, 1369
Privacy Act of 1974 Computer Matching, 1481
Refugee Resettlement Program, 273, 721
Reporting, Employment Requirements for Employees of Certain Workers Employed in Seasonal Agricultural Services, 1004
SAVE Waivers and Delegation of Authority, 721
State Legalization Impact Assistance Grants, 577
Temporary Alien Agricultural Labor Certification Program, 1004
Temporary Alien Workers Seeking Classification, 1581
Temporary Disqualification of Certain Newly Legalized Aliens, 721
Temporary Employment of Aliens in Agriculture, 166
Temporary Employment of Aliens in Agriculture in U.S, 1004
United States History/Government Questions and Answers, 722
Workers Needed to Perform Seasonal Agricultural Services, 1581

JUVENILES

Chapter 1 Program for Neglected or Delinquent Children, 722
Juvenile Justice and Delinquency Prevention Formula Grants, 1004
Missing Children's Assistance Act Final Program Priorities, 166
Office of Juvenile Justice and Delinquency Prevention's FY 1989 Program Plan, 273
Proposed Comprehensive Plan for FY 1990, 1481
Runaway and Homeless Youth Program, 273, 1581

MENTAL HEALTH

Methodologic Research for Multisite Epidemiologic Surveys of Mental Disorders in Child, Adolescent Populations, 577

MIGRANTS

Adverse Effect Wage Rate Methodology, 722
Alien Commuters, 46
Chapter 1—Migrant Education Coordination Program for State Educational Agencies (SEAs), 273
Chapter 1 Migrant Education Program, 1369
Handicapped Farmworkers, 46
Migrant and Seasonal Agricultural Worker Protection Regulations, 273
Migrant Education Coordination Program, 1004
Migrant Education Even Start Program, 274, 578

NATIVE AMERICANS

Adding Lands to Existing Seminole Indian Reservation, 46
Annual Publication of Systems of Records, 1369
Availability of Competitive Financial Assistance, 1581
Availability of Financial Assistance for Native Americans, 1369
Education Personnel, 1369
Gifted and Talented Program, 1482
Health Professions Education Loans, 274
Highway Traffic Safety on Indian Reservations, 1482
HUD Policy on Establishment of Ceiling Rents for Indian Housing, 166
Indian Education Formula Grants, 274
Indian Education General Provisions and Discretionary Grants, 274
Indian Fellowship Program, 578
Indian Health Service Medical Reimbursement Rates, 1581
Job Training Partnership Act, 1481
Library Services to Indian and Hawaiian Natives Program, 578
List of Rejected Statute of Limitations Claims, 1482
Loans to Indians, 1005
Management of Osage Judgment Funds for Education, 1005
Medical Reimbursement Rates, 722
Plan for Use, Distribution of Funds to Pay Judgments to Indian Tribes, 46
Preparation of Rolls of Indians, 166
Probate of Indian Estates, 46
Ranking Applicants for Planning of New Institute, 578
Services to Handicapped Indian Infants, Toddlers, and Their Families, 578
Social, Economic Development Projects for Native Americans, 274
Supportive and Nutritional Services for Older Indians, 1581
Surface Coal Mining and Reclamation Operations, 578
VA Advisory Committee on Native American Veterans, 578
Water Quality Planning, Management, 166

PRISONS

Acceptance of Donations, 1370
Adult Basic Education Program, 1005
Authorizing Home Detention as Alternative to Incarceration, 166
Disciplinary Hearings, 274
Disclosure Exemptions, 722
Inmate Contact with the Media, 1482
Inmate Financial Responsibility Program, 1482
Mandatory Revocation of Parole for Possession of Controlled Substance, 166
Manufacture, Sale, and Fraudulent Use of Credit Cards, 722
Paroling, Recommitting, and Supervising Federal Prisoners, 1581
Placing Parole Violator Warrant as a Detainer, 166
Prisoners Serving Aggregated U.S. and D.C. Code Sentences, 722
Procedures for Handling of HIV-Positive Inmates Who Pose Danger to Others, 166
Property Destruction by Arson or Explosives, 166
Release Dates for Prisoners Transferred Pursuant to Treaty, 722
Release of Inmates, 1482
Review Hearings for Federal Prisoners, 1581
Searching/Detaining of Noninmates, Arresting Authority, Use of Metal Detectors, 166
Smoking/No Smoking Areas, 1370
Special Parole Term Violators, 166
Statutory and Earned Good Time, 1005
Use of Force, Application of Restraints on Inmates, 578

PUBLIC UTILITIES/ENERGY

Costs for Construction Work In Progress (CWIP), 1005
Federal Energy Commission Filing Fees, 166
Filing Deadline in Special Refund Proceeding No. KEF-0087, 578
Low-Income Home Energy Assistance FY 1990 State Median Income, 166
NRC/State Cooperation Policy Statement, 46
Nuclear Regulatory Commission (NRC) Domestic Licensing Proceedings, 1005
Policy Statement on Litigation of Three Mile Island-Related Issues, Revocation of Superseded Policy, 46

RURAL ISSUES

Account Servicing Policies, 274
Authority to Administer Guaranteed Loans for Rural Business Enterprises, 1370
Civil Penalties, Administrative Hearing Procedures Under Employee Retirement Income Security Act (ERISA) Section 502(c)(2), 578
Consolidation of Loan Statements, 46
Credit Reports on Individuals, 274
Disaster Assistance Act of 1988, 578

Drought and Disaster Guaranteed Loan Program, 578
Farm Credit Administration, 1482
Farm Credit Administration Loan Policies, Operations, 46
Farm Labor Housing Loan, Grant Program, 167
Farmer Program Loan Provisions of Disaster Assistance Act of 1988, 722
FmHA Delinquent Borrowers, 167
Reporting Delinquent Borrowers to Credit Bureaus, 167
Rural Labor, 578
Section 504 Rural Housing Loans, Grants, 167
Section 515 Rural Rental Housing Loan Policies, 167
Single-Family Loans, Security Servicing, Management of Inventory Property, 274

SENIOR CITIZENS

Evidence Required for Payment of Railroad Retirement Benefits, 1005
Family Relationships, 1370
Foster Grandparent, Senior Companion Programs, 274
General Administration, 1370
Geriatric Education Centers, 1582
Income Eligibility Levels for Foster Grandparent Program, Senior Companion Program, 722
Phrase Clarification, 1582
Railroad Retirement Annuities, 167
Railroad Retirement Annuity Beginning and Ending Dates, 722
Requirements for Long-Term Care Facilities, 722
Unsupervised Waivers Under Age Discrimination in Employment Act (ADEA), 1005

SOCIAL SECURITY/SSI

Application of Circuit Court Law, 1582
Computer Matching, 1482
Computer Matching Programs, 578
Continued Payment of Benefits During Appeal, 1582
Determining Disability and Blindness, 1482
Disability Benefits, 1482
Exception of Certain SSI Payments from Retrospective Monthly Accounting, 1005
1990 Cost-of-Living Increase and Other Determinations, 1370
Railroad Retirement Board (RRB) Computer Matching Program, 579
Revised Determination of 1990 Contribution and Benefit Bases, 1482
Social Security Disability Program Demonstration Projects, 578, 579
SSA Appeals Council Regulations, 1005
SSA's Computer Matching Program, 46
SSI Categories of Impairments, 1482
SSI for Individuals at Emergency Homeless Shelters and in Medical Care Facilities, 274
Use of Title II Benefit Payments by Representative Payee, 1005

TAXATION

Taxpayer Assistance Orders, 167

UNEMPLOYMENT COMPENSATION

Disaster Unemployment Assistance Program, 167
Disaster Unemployment Insurance, 579
Procedures for Release of Benefits Quality Control Data, 46
Registration for Railroad Unemployment Benefits, 579
Trade Adjustment Assistance for Workers Program, 579
Unemployment Compensation Benefits Quality Control Annual Report, 1005
Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law, 1582
Unemployment Insurance Program Letters, 46, 579

VETERANS/MILITARY

Altered Systems of Records, 168
Appeals Regulations and Rules of Practice, 167
Applicability of Radiation-Risk Presumption to Personnel on Active Duty for Training, 1582
Applicability of Statutory Limitation on Attorney Fees, 1582
Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), 167, 1483
Civilian Health and Medical Program of Uniformed Services (CHAMPUS) Peer Review Organization Program, 579
Claim Based on Exposure to Ionizing Radiation, 1371
Community Residential Care, 275
Cost-of-Living Adjustments and Headstone or Marker Allowance Rate, 1371
Defense Manpower Data Center Computer Matching Program, 274
Definition of "Net Value" Under Loan Guaranty Rules, 723
Definition of Former Prisoner of War, 1371
Definition of Fraud for Adjudication Applications, 1005
Dental Care for Former Prisoners of War, 580
Dependents' Educational Assistance, 1006
Determination of Net Value of Property, 167
Determining Entitlement Usage Under the Vocational Rehabilitation Program, 1371
Diseases Subject to Presumptive Service Connection, 580
DoD Members and Families Outside U.S. Charged with, Convicted of Felonies/Contempt, 47
Due Process, 1370
Education Assistance, 1005
Effective Date for Improved-Pension Purposes Based on Change in Income, 1582
Effects of Exposure to Ionizing Radiation, 580, 723
Eligibility of Stepchildren for Dependents' Education, 1370
Employment Services for Certain Eligible Veterans, 579
Entitlement to Burial Benefits Following Change in Law, 1582
Establishment of the Department of Veterans Affairs, 47
Evaluation of Studies Relating to Health Effects of Dioxin and Radiation Exposure, 1370
Federal Advisory Committees' Annual Reports, 579
Freedom of Information Act, 47
Guaranteed Loan Lenders' Appraisal Processing Program, 274
Homeless Veterans' Reintegration Projects, 167
Index of Opinions Issued by Office of General Counsel, 274
Interest Rates on Guaranteed Manufactured Home Unit Loans, 579
Medicare Part A Beneficiary Records Matching Program, 47
National Service Life Insurance, 1371
Nursing Home Report, 47
On-Job Training and Work Experience, 1582
Optional Settlements on Insurance Calculations, 1006
Payment of Loan Guaranty Claims, 580
Procedural Usage of the Combined Ratings Table, 580
Quality Assurance Confidentiality, 722
Release of Information, Records from Army Files, 274
Report of New Matching Program, 580
Report of VA Matching Program, 168
Restrictions on VEAP Payments, 1483
Revised Schedule of Remuneration for UCX Program, 167
Schedule for Rating Disabilities, 1482
Selective Service Registrant Processing Procedures, 168
Selective Service Regulations, 580
Special Medical Advisory Group's Annual Report, 579
Summaries of Legal Interpretations of Veterans' Benefits, 1006
Surviving Spouse Benefits for Nonservice-Connected Deaths of Veterans, 1005
United States Court of Veterans Appeals, 1370

VETERANS/MILITARY

VA Medical Facilities, 167

VA Wage Committee Annual Report, 274

VA's Nomenclature Changes, 1006

VA's System of Records, 275

Veterans Education, 167

Veterans Education Procedural Due Process, 723

Veterans' and Dependents' Educational Assistance, 1006

Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, 1006

Veterans' Education, 1482

Veterans' Employment and Training Services, 1370

Vocational Rehabilitation Panel, 1006

Vocational Rehabilitation Program for Veterans Not Residing in a State, 1006

Voluntary Service National Advisory Committee Availability of Annual Report, 1371

Waivers and Compromises, 1370

WELFARE

AFDC Fraud Detection, 275

Emergency Food and Shelter Program Allocations, 1006

Employment and Support Services, 1371

Federal Matching Percentages, 1483

Title XX Social Services Block Grants, 1483

TOPICAL INDEX

This is a listing by topic of cases that have appeared in the Clearinghouse Review for the period covered by this Index. The numbers in brackets are the Clearinghouse Numbers and must accompany all document reprint requests. Cases without Clearinghouse Numbers were reported in the Advance Sheet Highlights section of the Review.

ABORTION

California Legal Servs. Trust Fund, *In re* [44,637], 301
National Center for Youth Law v. LSC [45,500], 1546

ADMINISTRATIVE LAW

Arbitrary and Capricious

Bobby v. Alaska, 1377
Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898
Teeter v. Supplemental Pension Plan of Consol. Rail Corp., 289

Bias of ALJ

Bartley v. Bowen [44,481], 198
Grant v. Sullivan [44,741], 631, 755
Pearce v. Sullivan, 570
Stephens, *In re* [45,279], 1309

Delay in Processing

Foreman v. Anchorage Equal Rights Comm'n, 1471

Exhaustion of Remedies

Ahghazali v. Secretary of HHS, 220
Cox v. Jenkins, 989
J. v. Jones [31,293], 1308
Neighborhood Action Coalition v. Canton, Ohio, 1377
Su Thi Nguyen v. Sullivan [45,282], 1343
W., Christopher v. Portsmouth School Comm., 989
Zeigler v. Kirschner [43,398], 1470

Finality

Begley v. Sullivan [43,966], 909
Steeves v. Spencer [37,334], 739, 1007
Thompson v. Sullivan, 1372

Hearings

H. v. Department of Health & Rehabilitative Servs. [44,724], 589
Simmons v. Traughber [44,611], 338

Judicial Review

Alabama Medicaid Agency v. Peoples, 1374
Bennett v. Tucker, 1468
Bolden v. Bowen, 289
Brinkley v. Early [45,345], 1352
P., D., *In re*, 1469
Silva v. Department of Employment Sec. [45,406], 1550
Tietjen v. VA, 1385
Tinsley v. Kemp [44,154], 1447
Turner v. Perales [41,234], 204

Nonacquiescence with Court Decision

Johnson v. United States R.R. Retirement Bd. [45,233], 1341
Nash v. Bowen, 284
Vorster v. Sullivan [37,838], 564, 1020
Wilkerson v. Sullivan [44,589], 335, 1041, 1342

Rulemaking Procedures

Action Alliance of Senior Citizens of Greater Philadelphia v. Bowen [34,403], 173
H. v. Department of Health & Rehabilitative Servs. [44,724], 589
Lynch v. Lyng [43,756], 302
Township of Bernards v. New Jersey Dep't of Community Affairs, 562
Velasquez v. Michigan Senate [44,686], 624

Notice

Abernathy v. Yeutter [44,695], 600, 1319
C., *In re* [44,484], 182
Coleman v. Barry [44,388], 62, 899
Crane v. Kemp [44,576], 320
Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898
Lee v. Kemp [43,709], 743
Skelley v. Sullivan [44,371], 61, 604
Texas Health Care Ass'n v. Bowen [44,361], 62
Tucker v. Atwood [37,742], 990

Proposed Rule Change

Fedderly v. Wisconsin Dep't of Health & Social Servs. [44,731], 608

Scope of Review

McKinzie v. Board of Supervisors of Placer County [43,576], 316

Sovereign Immunity

Cotton v. Babcock [37,134], 598
Gray v. Rankin, 1465
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
Mercer v. Yeutter [44,890], 736, 897
Pennsylvania v. Union Gas Co., 564

Standing

Brinkley v. Early [45,345], 1352
Brown v. Ledbetter [41,201], 761, 1438
Lee v. Kemp [43,709], 743
Nash v. Bowen, 284
Richards v. Cullen, 1574

ADOPTION

See also ILLEGITIMATE CHILDREN

R., B.B., *In re*, 1571

Abandonment

Chaffin v. Palumbo [45,283], 1315
Doe, Adoption of, *In re*, 707

Best Interest Standard

B., M. A., Adoption of, *In re* [44,622], 309
Doe, Adoption of, *In re*, 707
Dunn v. Dunn, 987
S., D.L., *In re*, 1375
Thorne v. Padgett, 1571

Consent Requirements

Adoption No. 2428, *In re*, 1572
B., *In re* [45,331], 1450
Baby Boy R. v. Velas, 1572
Chaffin v. Palumbo [45,283], 1315
Doe, Adoption of, *In re*, 707
McAda, *In re*, 1471
Necaise, *In re* [44,520], 179, 595

Costs

L., A.A., *In re*, 1467
Marin v. Commissioner of Income Maintenance [44,485], 207

Notice Requirements

V., A.E., *In re*, 1471

Placement Procedures

Spielman v. Hilderbrand, 561

Race Considerations

Mississippi Band of Choctaw Indians v. Holyfield, 218

Support Obligations

Alley v. Bennett, 562
Thorne v. Padgett, 1571

Termination of Parental Rights

Adoption No. 2428, *In re*, 1572
Baby Boy R. v. Velas, 1572
S., D.L., *In re*, 1375
Spielman v. Hilderbrand, 561
Thorne v. Padgett, 1571

VISITATION RIGHTS

Hicks v. Enlow, 214

AID TO FAMILIES WITH DEPENDENT CHILDREN

See also WELFARE

ABSENCE OF PARENT

Barber v. Mansour [42,788], 763

ADOPTED CHILDREN

Marin v. Commissioner of Income Maintenance [44,485], 207

ALIENS

Solis v. Department of Health & Rehabilitative Servs. [45,167], 1353

APPLICATION PROCEDURES

Alexander v. Flaherty [13,475], 764, 1458
Johnson v. Babcock [44,712], 763

ASSETS

Cameron, *In re* [44,742], 642
Perkins v. Florida Dep't of Health & Rehabilitative Servs., 290

AVAILABLE INCOME

B., *In re* [45,094], 1051
B., *In re* [45,001], 915
Beaton v. Thompson [44,989], 912
Jackson v. Mullany [44,504], 205
Lewis v. Pennsylvania Dep't of Pub. Welfare, 572
Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640
N., J., *In re* [44,748], 767
Stroop v. Bowen [43,018], 572
Thorsen v. Minnesota [44,521], 342

BENEFIT LEVELS

Guidice v. Jackson [44,883], 765, 1458

CHILD LIVING OUTSIDE HOME

Ayres v. Babcock [37,119], 221

CHILD SUPPORT

Alaska Child Support Enforcement v. Gammons, 707
B., *In re* [45,094], 1051
Baylor v. New Jersey Dep't of Human Servs. [44,981], 1049, 1352
Bennett v. White [27,044], 635, 1351
Carelli v. Howser [44,746], 594
Doe v. Aiello [45,127], 1048
Dube, *In re* [44,496], 209
Esquivel v. McMahon [44,171], 342
Forbes v. White [45,048], 1048
New Hampshire v. Dionne, 572
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309
Zeien v. Palmer [44,729], 637

Assignment

Brown v. Angus [44,603], 639
Brown v. Ledbetter [41,201], 761, 1438
Danforth v. Maine [45,237], 1355
Department of Social Servs. v. Brewer, 1385
Ellis v. Carlton [44,767], 641
Gagne v. Bordeleau [44,402], 78
Illinois State Bar Ass'n Ethics Opinion re Conflict of Interest, *In re* [44,726], 585
Overbey v. McBride [43,483], 594
Pray v. Iowa Dep't of Human Servs., 222

Cooperation with Enforcement Efforts

B., *In re* [44,629], 342
DeArmond v. Sugarman [44,056], 639
M., *In re* [44,631], 342
Myers v. Director, Mich. Dep't of Social Servs. [45,172], 1353
O., *In re* [44,632], 342
Sahi v. McMahon [40,789], 1568
Smith v. South Carolina Dep't of Social Servs. [44,501], 208

Pass Through

Beasley v. Ginsberg [42,507], 1047
Berg v. Gardebring [43,866], 205, 1048
Brown v. Angus [44,603], 639
Brown v. McMahon [43,812], 1350
Cassell v. Flaherty [45,398], 1439
Cowling v. Barry [43,831], 78
Gardner v. Magnant [44,430], 205
Gulley v. Patterson [43,867], 762
Illinois State Bar Ass'n Ethics Opinion re Conflict of Interest, *In re* [44,726], 585
Jackson v. Mullany [44,504], 205
Kenyon v. Barile [45,245], 1351
Ledbetter v. Wilson [44,722], 640
Mosley v. Barry [44,151], 638
Schwendeman v. Ives [45,421], 1567
Sheffield v. Coler [44,547], 340, 1047
Shenigo v. Cohen [44,438], 206
Vanscoter v. Thompson [41,726], 340, 761
Wilcox v. Ives [40,813], 1008

CITIZENSHIP

Flores v. Concannon [44,141], 740

COMPUTATION

Beaton v. Thompson [44,989], 912

COOPERATION REQUIREMENTS

B., *In re* [44,629], 342
DeArmond v. Sugarman [44,056], 639
Kent v. Department of Health & Rehabilitative Servs. [45,151], 1352
M., *In re* [44,631], 342
O., *In re* [44,632], 342
Sahi v. McMahon [40,789], 1568

COUNTABLE INCOME

Andrade v. Bowen [44,071], 762
Danner v. Division of Family Servs., 998

DELAYED PAYMENTS

Peppers v. Barry [43,861], 572, 726
St. Amand v. Commissioner, Me. Dep't of Human Servs. [44,974], 1050

DEPRIVATION OF PARENTAL SUPPORT

Jeffords v. Department of Human Servs. [43,951], 1569

DUE PROCESS

Bennett v. White [27,044], 635, 1351
Berg v. Gardebring [43,866], 205, 1048
DeArmond v. Sugarman [44,056], 639
Jeffords v. Department of Human Servs. [43,951], 1569
Kenyon v. Barile [45,245], 1351
See Moua v. Goodrich [45,219], 1352

DUPLICATE PAYMENTS

F., *In re* [44,580], 343

EARNED INCOME DISREGARDS

Simpson v. Hegstrom [40,233], 636
Smith v. Babcock [44,871], 764

EDUCATIONAL ALLOWANCE

Burrows, *In re* [44,975], 914
Cote v. Commissioner, Maine Dep't of Human Servs. [44,978], 1355
Danner v. Division of Family Servs., 998

ELIGIBILITY

Ayres v. Babcock [37,119], 221
Chase v. Ives [45,240], 1355
Guidice v. Jackson [44,883], 765, 1458

Users' guide to the Topical Index

ADOPTION — MAIN HEADING

ASSETS — SUB HEADING

Assignment — TOPIC

CASE NAME, CH #, PAGE #

McPeak v. Baldwin [99,999], 1

ADD'L SUB-CATEGORIES OF TOPIC

> Handicapped Parents

»Mental Disabilities

Lewis v. Johnston [42,659], 206
Lewis v. Pennsylvania Dep't of Pub. Welfare, 572
Maine Ass'n of Indep. Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [45,228], 1350
McKenney v. Sullivan [45,227], 1350
Monte v. New Mexico Human Servs. Dep't [45,409], 1568
N., J., *In re* [44,748], 767
Sandry v. Rubin [44,391], 78
Solis v. Department of Health & Rehabilitative Servs. [45,167], 1353
Strobhar v. Pennsylvania Dep't of Pub. Welfare, 572
Stroop v. Bowen [43,018], 572
Tennessee Dep't of Human Servs. Reconsideration Hearing, *In re* [44,445], 210
Upson v. Watson [43,792], 764

EMANCIPATED MINORS

Connecticut v. Sanchez [45,370], 1460

EMERGENCY ASSISTANCE

Deck v. Michael [44,594], 341
Dorman v. Eichler [45,327], 1461
Harrison v. Town of Old Saybrook [44,685], 611, 1555

EMPLOYABILITY DEFINITION

Upson v. Watson [43,792], 764

EQUAL PROTECTION

Baylor v. New Jersey Dep't of Human Servs. [44,981], 1049, 1352
Brown v. McMahon [43,812], 1350

ESSENTIAL PERSONS

Maine Ass'n of Indep. Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [45,228], 1350
McKenney v. Sullivan [45,227], 1350

FAMILY BUDGET UNIT

Beaton v. Thompson [44,989], 912
D., *In re* [44,666], 643
Maine Ass'n of Indep. Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [45,228], 1350
McKenney v. Sullivan [45,227], 1350
Springer v. Department of Pub. Welfare, 998

Three-Generation Household

Grimesy v. Huff [42,041], 716

FOSTER CARE

Monte v. New Mexico Human Servs. Dep't [45,409], 1568

GARNISHMENT

Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309

HEARINGS

Myers v. Director, Mich. Dep't of Social Servs. [45,172], 1353
North Dakota *ex rel.* Graham v. Hatch [44,873], 726
Peppers v. Barry [43,861], 572, 726

HOUSEHOLD SHARING

Cowan v. Lipscomb [43,464], 207

INCAPACITATED CLAIMANTS

Jeffords v. Department of Human Servs. [43,951], 1569
Upson v. Watson [43,792], 764

INCOME

Figueroa v. Sunn [45,084], 1047

Availability

B., *In re* [45,094], 1051
Bergen County Bd. of Social Servs. v. M. [45,079], 1051
Cameron, *In re* [44,742], 642
Hamilton v. Vigo County Dep't of Pub. Welfare [44,690], 640
Jackson v. Mullany [44,504], 205
Marin v. Commissioner of Income Maintenance [44,485], 207
Massachusetts Title IV-A State Plan Amendment, *In re* [44,749], 767
Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640
N., J., *In re* [44,748], 767

Deeming

Grimesy v. Huff [42,041], 716
Hamilton v. Vigo County Dep't of Pub. Welfare [44,690], 640
Stroop v. Bowen [43,018], 572
Thorsen v. Minnesota [44,521], 342

Disregards

Andrade v. Bowen [44,071], 762
Baylor v. New Jersey Dep't of Human Servs. [44,981], 1049, 1352
Boggs v. Yeutter [44,960], 897
Ledbetter v. Wilson [44,722], 640
Springer v. Department of Pub. Welfare, 998

> Caretaker Relative

Simpson v. Hegstrom [40,233], 636

> Earned Income

Simpson v. Hegstrom [40,233], 636

> Educational Allowance

Cote v. Commissioner, Maine Dep't of Human Servs. [44,978], 1355

> Students

Danner v. Division of Family Servs., 998

JOBS SEARCH

Carter v. Ives [45,046], 1461

JOINT BUDGETING WITH SSI

Cowan v. Lipscomb [43,464], 207

LIENS FOR BENEFITS RECEIVED

Sidwell v. McMahon [44,763], 637

LUMP SUM PAYMENTS

B., *In re* [45,094], 1051
Beatham v. Commissioner, Me. Dep't of Human Servs. [44,904], 765
Goldring v. Department of Human Resources [44,793], 766
Graham v. Bowen, 290
Hamilton v. Vigo County Dep't of Pub. Welfare [44,690], 640
K., *In re* [44,522], 343
McIntosh v. Commissioner, Me. Dep't of Human Servs. [43,953], 207
N., J., *In re* [44,748], 767
Salem County Welfare Agency v. B. [44,920], 767
Smith v. Concannon [45,037], 1021
Tennessee Dep't of Human Servs. Reconsideration Hearing, *In re* [44,445], 210

MANDATORY COOPERATION

Location or Identification of Absent Parent

B., *In re* [44,629], 342
DeArmond v. Sugarman [44,056], 639
M., *In re* [44,631], 342
O., *In re* [44,632], 342
Sahi v. McMahon [40,789], 1568
Smith v. South Carolina Dep't of Social Servs. [44,501], 208

MONTHLY INCOME REPORTING

Overpayments

F., *In re* [44,580], 343

An Advocate's Guide to Medicaid Case Management Programs by the National Health Law Program

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NEGATIVE ACTION NOTICES

Huskey v. New Jersey Dep't of Human Servs. [45,236], 1357
Ortiz v. Eichler [35,980], 1350

PATERNITY

Doe v. Aiello [45,127], 1048
Louisiana *ex rel.* Braden v. Nash, 1467

Cooperation in Establishing

B., *In re* [44,629], 342
DeArmond v. Sugarman [44,056], 639
Kent v. Department of Health & Rehabilitative Servs. [45,151], 1352
M., *In re* [44,631], 342
O., *In re* [44,632], 342

PAYMENT STANDARDS

Vanscoter v. Thompson [41,726], 340, 761

PERSONAL INJURY SETTLEMENT

Graham v. Bowen, 290

PROMPT PROCESSING

Alexander v. Flaherty [13,475], 764, 1458
See Moua v. Goodrich [45,219], 1352
St. Amand v. Commissioner, Me. Dep't of Human Servs. [44,974], 1050

RECOUPMENT

Fenton v. Miller [44,882], 766

Departmental Error

Jackson v. Rhode Island Dep't of Human Servs. [45,372], 1461
Minor v. Adult & Family Servs. Div. [45,039], 1049

Overpayments

Abernathy v. Yeutter [44,695], 600, 1319
B., *In re* [45,094], 1051
Bergen County Bd. of Social Servs. v. M. [45,079], 1051
Cameron, *In re* [44,742], 642
Campos v. Flaherty [44,633], 341
Childs v. Essex County Div. of Welfare, 1385
D., *In re* [44,666], 643
Danner v. Division of Family Servs., 998
Jackson v. Rhode Island Dep't of Human Servs. [45,372], 1461
Jeffords v. Department of Human Servs. [43,951], 1569
K., *In re* [44,522], 343
Lentz v. McMahon [35,114], 913
Marable v. Lee County [45,224], 1356
McLaughlin v. Canino-Siegrist [44,867], 1051
Minor v. Adult & Family Servs. Div. [45,039], 1049
Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640
Powers v. Department of Social Servs., 1385
Robinson v. Flaherty, 290
Salem County Welfare Agency v. B. [44,920], 767
Sorenson v. Pine County Welfare Bd. [45,241], 1356
Strong, *In re* [44,891], 766

Tax Refunds

English v. Rubin [44,386], 77

REDETERMINATION PROCEEDINGS

Strobhar v. Pennsylvania Dep't of Pub. Welfare, 572

REDUCTION

Bergen County Bd. of Social Servs. v. M. [45,079], 1051
Springer v. Department of Pub. Welfare, 998

Notice

Cowling v. Barry [43,831], 78

REIMBURSEMENTS

Alaska Child Support Enforcement v. Gammons, 707
Idaho Dep't of Health & Welfare *ex rel.* Bowler v. Bowler, 1476
Lucas v. King [42,577], 636, 1349
Minnesota *ex rel.* Miller v. Miller, 1385

RELATIVE RESPONSIBILITY

Child Support

Connecticut v. Sanchez [45,370], 1460
Doe v. Aiello [45,127], 1048
Gulley v. Patterson [43,867], 762

> Reimbursement to Welfare Agency

Bennett v. White [27,044], 635, 1351
Dube, *In re* [44,496], 209
Fenton v. Miller [44,882], 766
Florida Dep't of Health & Rehabilitative Servs. v. D'Andrea, 716
Idaho Dep't of Health & Welfare *ex rel.* Bowler v. Bowler, 1476
Minnesota *ex rel.* Miller v. Miller, 1385
New Hampshire v. Dionne, 572
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309
Vanscoter v. Thompson [41,726], 340, 761

RESOURCES

Cameron, *In re* [44,742], 642
K., *In re* [44,522], 343
Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640
Sidwell v. McMahon [44,763], 637

RETROACTIVE PAYMENTS

F., *In re* [44,580], 343

SANCTIONS

Boettger v. Secretary of HHS [42,866], 638, 1349
Kronquist v. Goodrich [45,344], 1458

SETOFFS

Jackson v. Mullany [44,504], 205

SHELTER ALLOWANCE

Burlington County Welfare Bd. v. B. [44,432], 209
Jiggetts v. Perales [43,124], 765, 1568

SPECIAL NEEDS GRANT

Cote v. Commissioner, Maine Dep't of Human Servs. [44,978], 1355
Marin v. Commissioner of Income Maintenance [44,485], 207
Massachusetts Title IV-A State Plan Amendment, *In re* [44,749], 767
Savage v. Aronson [44,743], 642, 1354

STANDARD OF NEED

Guidice v. Jackson [44,883], 765, 1458
Petitions for Rulemaking N.J.A.C. 10:82-1.2 & 10:85-4.1, *In re* [43,465], 1567

STEPPARENT

Hamilton v. Vigo County Dep't of Pub. Welfare [44,690], 640
Montell v. Washington Dep't of Social & Health Servs., 998

SUPPORT OBLIGATIONS

Esquivel v. McMahon [44,171], 342
Montell v. Washington Dep't of Social & Health Servs., 998

TERMINATION OF BENEFITS

Carter v. Ives [45,046], 1461
Chase v. Ives [45,240], 1355
Jeffords v. Department of Human Servs. [43,951], 1569

Excess Income

D., *In re* [44,666], 643
Sandry v. Rubin [44,391], 78
Zeien v. Palmer [44,729], 637

Failure to Cooperate

Kent v. Department of Health & Rehabilitative Servs. [45,151], 1352
Myers v. Director, Mich. Dep't of Social Servs. [45,172], 1353
Sahi v. McMahon [40,789], 1568
Smith v. South Carolina Dep't of Social Servs. [44,501], 208

Lump Sum Payments

Beatham v. Commissioner, Me. Dep't of Human Servs. [44,904], 765
Goldring v. Department of Human Resources [44,793], 766
Graham v. Bowen, 290
Letendre v. Housing Auth. of Woonsocket [44,369], 65
McIntosh v. Commissioner, Me. Dep't of Human Servs. [43,953], 207
N., J., *In re* [44,748], 767

Salem County Welfare Agency v. B. [44,920], 767

Reporting Requirements

Huskey v. New Jersey Dep't of Human Servs. [45,236], 1357
Kent v. Department of Health & Rehabilitative Servs. [45,151], 1352
St. Amand v. Commissioner, Me. Dep't of Human Servs. [44,974], 1050

UNDERPAYMENTS

Lucas v. King [42,577], 636, 1349

UNEARNED INCOME

Cowan v. Lipscomb [43,464], 207
Figueroa v. Sunn [45,084], 1047
Ledbetter v. Wilson [44,722], 640

UNEMPLOYMENT

Chase v. Ives [45,240], 1355

Good Cause

Carter v. Ives [45,046], 1461

UNMARRIED PARENT

Sandry v. Rubin [44,391], 78

UNWED MOTHER LIVING WITH PARENT

Grimesy v. Huff [42,041], 716

UTILITY GRANT

DeAllaume v. Perales [44,376], 77
Deck v. Michael [44,594], 341
McMullen v. Perales [44,356], 77

VERIFICATION

Alexander v. Flaherty [13,475], 764, 1458
Barber v. Mansour [42,788], 763
Johnson v. Babcock [44,712], 763
Lewis v. Johnston [42,659], 206
Robinson v. Grinker [42,952], 208

WORK EXPENSES (DEDUCTIONS)

Travel

Crary v. Department of Social Servs. [45,402], 1459
Polendo v. Johnston [43,256], 1351

WORK INCENTIVE DEMONSTRATION PROJECTS

Boettger v. Secretary of HHS [42,866], 638, 1349

WORK INCENTIVE PROGRAM

Crary v. Department of Social Servs. [45,402], 1459
Polendo v. Johnston [43,256], 1351
Windley v. Department of Social Servs. [45,265], 1354

Employment Plans

Burrows, *In re* [44,975], 914

Sanctions for Failure to Participate

Boettger v. Secretary of HHS [42,866], 638, 1349
Kronquist v. Goodrich [45,344], 1458
Simpson v. Hegstrom [40,233], 636
Weyburn v. Florida Dep't of Health & Rehabilitative Servs., 90

AIDS

See HEALTH

ALIENS

See also IMMIGRATION, MIGRANTS

ARREST

Proof of Citizenship

Ramirez v. Webb [31,766], 904

DEPORTATION

Gameros-Hernandez v. INS, 1379
Hernandez-Garza v. INS, 1379
Minatsis v. Brown, 991
Pierre, *In re* [44,872], 748
United States v. Santos-Vanegas, 991
Vallina v. Meese, 219

EMPLOYMENT

AFL-CIO v. Dole, 1380
American Friends Serv. Comm. v. Thornburgh, 1379
Arteaga v. Industrial Claim Appeals Office [38,764], 1471
NAACP v. McLaughlin [33,367], 218

Discrimination

EEOC v. Switching Sys. Div., Rockwell Int'l [44,747], 596

Undocumented Workers

Lopez v. Davidian [44,067], 324, 1560

Work Authorization

Lopez v. Davidian [44,067], 324, 1560
United Farm Workers of Am. v. INS [42,723], 325

ILLEGAL ALIENS

AFDC Eligibility

Flores v. Concannon [44,141], 740

Search Standards

Pearl Meadows Mushroom Farm, Inc. v. Nelson, 1470

MEDICAID

Eligibility

Flores v. Concannon [44,141], 740
Ruiz v. Kizer [43,863], 1323

MEDICAL SERVICES

Nonemergency Service Eligibility

Ruiz v. Kizer [43,863], 1323

NATURALIZATION

Ayuda, Inc. v. Thornburgh, 991

POLITICAL ASYLUM

Menendez, *In re* [45,242], 1335
Pierre, *In re* [44,872], 748

REFUGEES

Detention

Pierre, *In re* [44,872], 748
Vallina v. Meese, 219

VISA CERTIFICATION

City of New York v. Baker III, 991

WELFARE ELIGIBILITY

Doe v. Department of Pub. Welfare [45,284], 1335
Solis v. Department of Health & Rehabilitative Servs. [45,167], 1353
Tabib v. Bowen [43,692], 199

ATTACHMENT

See also CONSUMER, GARNISHMENT, REPOSSESSION

PRESEIZURE NOTICE

Games v. Cavazos [44,697], 590

ATTORNEY FEES

ADMINISTRATIVE ACTIVITIES

Green v. Bowen, 985
Kelly v. Bowen, 81
Moore v. District of Columbia [45,053], 1463
Perez v. Secretary of HHS, 985
Sheely v. Wisconsin Dep't of Health & Social Servs. [43,864], 584
Sullivan v. Hudson, 558
Williams v. Boston School Comm., 558

ADVANCEMENT OF PUBLIC INTEREST

Aronson v. HUD, 81
Dunn v. The Florida Bar, 1570
Utah State Coalition of Senior Citizens v. Utah Power & Light Co., 985
Williams v. Hevi-Duty Elec. Co. [41,107], 174

AWARD

Arnold v. Arizona Dep't of Health Servs., 992
Associated Or. Veterans v. VA, 1475
Bueno v. CF&I Steel Corp. [44,681], 626
Burton v. Bowen, 706
Busch v. Busch, 1465
C., Shelly v. Venus Indep. School Dist., 985
Fenn v. Sullivan [45,277], 1344, 1546
Fritz v. White, 706
Gregory v. Gregory [45,110], 1009
Jungkurth v. Eastern Fin. Servs. [44,624], 301
Knop v. Johnson, 706
Koster v. Perales [38,504], 724
Mara v. Sullivan, 1463
McNeill v. HHS, 985
Pate v. Bobo, 566
Perez v. Secretary of HHS, 985

R/L Assoc., Inc. v. City of Seattle, 1470
Spradling v. Harris, 1375
Terry v. Bowen, 706
Tiedel v. Northwestern Mich. College, 81
Travieso v. Marshall [45,404], 1431
Trout v. Garrett, 1570
Watters, Marriage of, *In re*, 1464
Wiegand v. Secretary of HHS, 706
Yorke Management v. Castro, 1464
Yuhase v. County of Macomb, 559

BAD FAITH

Brown v. Sullivan, 1463
Committee on Legal Ethics v. Triplett, 284
Hyatt v. Sullivan [35,159], 706, 715

CIVIL RIGHTS ATTORNEY'S FEES AWARDS ACT

Friedrich v. City of Chicago [45,199], 1305

Interim

Trout v. Garrett, 1570

Settlements

Division of Child Protective Servs. v. Watkins [45,419], 1547
Muckleshoot Tribe v. Puget Sound Power & Light, 706

Successful Action

Bailey v. Wood, 558
Fuentes v. White, 558
Gray v. Romeo, 559
Knop v. Johnson, 706
MacLaird v. Werger, 1463
Missouri v. Jenkins, 558

COLLECTION

Committee On Legal Ethics v. Triplett, 214
HCA Health Servs. of Va. v. Peters [44,663], 584
Missouri v. Jenkins, 558

COLLECTION PRACTICES

Committee on Legal Ethics v. Triplett, 214, 284

CONSENT DECREES

Division of Child Protective Servs. v. Watkins [45,419], 1547
Hernandez v. Monterey Village Assocs. [39,523], 214
Lewis v. Johnston [42,659], 206

Enforcement

Duran v. Carruthers [43,262], 1372, 1380
MacLaird v. Werger, 1463

COSTS ALLOWED

Corbett v. Wild W. Enters. Inc., 985
Denny v. Westfield State College, 985
Friedrich v. City of Chicago [45,199], 1305
HCA Health Servs. of Va. v. Peters [44,663], 584
Jean v. Nelson, 81
Jefrey v. INS, 706
Knop v. Johnson, 706
Levy v. Bowen [43,624], 181, 1305
Lovig v. Bowen [45,255], 1305
Robinson v. Sullivan, 1372

DENIAL

Butler v. Turnage, 82
Calderon v. Presidio Valley Farmers Ass'n, 86
Child v. Spillane, 213
Department of Health & Rehabilitative Servs. v. Thompson, 1464
Desrouchers v. Heckler, 82
First Family Mortgage Corp. of Fla. v. Crane [44,536], 300
Hyden v. Board of Educ. of Wilson County, 985
Jankovich v. Bowen, 283
Johnstun v. Washington Dep't of Social & Health Servs., 82
Lindon v. Lindon [45,478], 1547
Myers v. Sullivan, 706
Straw v. Bowen, 213
Urban League v. Mayor & Council, 985

DETERMINATION

Aronson v. HUD, 81
Bowker v. Bowen, 283
Corbett v. Wild W. Enters. Inc., 985
Coup v. Heckler, 283
D., S. v. Faulkner, 283
Fritz v. White, 706
Halderman v. Pennhurst State School & Hosp. [12,902], 1570
J. v. Jones [31,293], 1308
Jean v. Nelson, 81
Jefrey v. INS, 706
Jones v. Hamilton County Comm'rs [37,337], 57
Knop v. Johnson, 706
McClendon v. Metropolitan Mortgage [43,703], 1431
Myrick v. Secretary of HHS [44,518], 171
Pappas v. Bowen, 81
Perez v. Secretary of HHS, 985
Rodriquez v. Bowen, 81
Stocks v. Sullivan, 1373
Weisbrod v. Sullivan, 706
Wiegand v. Secretary of HHS, 706

EQUAL ACCESS TO JUSTICE ACT

Barry v. Bowen, 1374
Brown v. Sullivan, 1463
Coup v. Heckler, 283
Desrouchers v. Heckler, 82
French v. Bowen, 559
Green v. Bowen, 985
Headlee v. Bowen [42,485], 283
Hills v. Secretary of HHS, 1570
Huddleston v. Secretary of HHS [44,503], 199
Huett v. Bowen, 558
Hyatt v. Sullivan [35,159], 706, 715
Kelly v. Bowen, 81
Lovig v. Bowen [45,255], 1305
Martindale v. Sullivan, 1463
McGuire v. Sullivan, 1463
Milliron v. Bowen, 559
Myers v. Sullivan, 706
Myrick v. Secretary of HHS [44,518], 171
Paige v. Sullivan, 1372
Peterson v. Bowen, 283
Pribek v. Secretary of HHS, 1372
Pugliese v. Bowen [44,735], 630
Salmi v. Secretary of HHS, 706
Sansom v. United States, 558
United States v. Hopkins Dodge Sales, Inc., 558

Substantially Justified Position

Baker v. Bowen, 283
Behnke v. Department of Health & Social Servs., 85
Burton v. Bowen, 706
Chynoweth v. Bowen [44,462], 171
First Family Mortgage Corp. of Fla. v. Crane [44,536], 300
Garcia v. Bowen, 82
Hicks v. Bowen, 81
Jankovich v. Bowen, 283
Jean v. Nelson, 81
Jefrey v. INS, 706
Lee v. Sullivan, 1463
Mara v. Sullivan, 1463
McDonald v. Secretary of HHS [41,450], 1372
Pirus v. Bowen [42,245], 171
Russell v. Heckler, 213
Sheely v. Wisconsin Dep't of Health & Social Servs. [43,864], 584
Smith v. Bowen [43,348], 213
Steeves v. Spencer [37,334], 739, 1007
Sullivan v. Hudson, 558
Trahan v. Regan [42,658], 1463
Wilcox v. Ives [40,813], 1008
Williams v. Sullivan [42,853], 1372

HOURLY RATES

Bailey v. Wood, 558
Baker v. Bowen, 283
Bowker v. Bowen, 283
Brown v. Sullivan, 1463
Burton v. Bowen, 706
Chynoweth v. Bowen [44,462], 171
Coup v. Heckler, 283
Fritz v. White, 706
Fuentes v. White, 558
Gray v. Romeo, 559
Halderman v. Pennhurst State School & Hosp. [12,902], 1570
HCA Health Servs. of Va. v. Peters [44,663], 584
Headlee v. Bowen [42,485], 283
Hills v. Secretary of HHS, 1570
Hyatt v. Sullivan [35,159], 706, 715
Jean v. Nelson, 81
Jones v. Hamilton County Comm'rs [37,337], 57
Jungkurth v. Eastern Fin. Servs. [44,624], 301
Lee v. Sullivan, 1463
McClendon v. Metropolitan Mortgage [43,703], 1431
McGuire v. Sullivan, 1463
McNeill v. HHS, 985

Missouri v. Jenkins, 558
Peterson v. Bowen, 283
Pirus v. Bowen [42,245], 171
Pugliese v. Bowen [44,735], 630
Salmi v. Secretary of HHS, 706
Steeves v. Spencer [37,334], 739, 1007
Stocks v. Sullivan, 1373
Terry v. Bowen, 706
Travieso v. Marshall [45,404], 1431
Wiegand v. Secretary of HHS, 706
Weisbrod v. Sullivan, 706
Williams v. Boston School Comm., 558

INDIGENTS

Williams v. Hevi-Duty Elec. Co. [41,107], 174

INTERVENOR'S RIGHT

Snow v. Lucas County Dep't of Human Servs. [44,698], 583
Utah State Coalition of Senior Citizens v. Utah Power & Light Co., 985

LEGAL SERVICES

Coleman v. Fiore Bros., Inc., 82
Garcia v. Bowen, 82
Wilcox v. Ives [40,813], 1008

NONPAYMENT

Barry v. Bowen, 1374
Russell v. Sullivan, 1463

PARALEGAL COSTS

Gray v. Romeo, 559
Koster v. Perales [38,504], 724
Missouri v. Jenkins, 558

PREVAILING PARTY

Child v. Spillane, 213
Corbett v. Wild W. Enters. Inc., 985
D., S. v. Faulkner, 283
Denny v. Westfield State College, 985
Dunn v. The Florida Bar, 1570
Duran v. Carruthers [43,262], 1372, 1380
French v. Bowen, 559
Fritz v. White, 706
Fuentes v. White, 558
Green v. Bowen, 985
Hicks v. Bowen, 81
Huett v. Bowen, 558
Jackson v. Galan, 213
Jean v. Nelson, 81
Jones v. Hamilton County Comm'rs [37,337], 57
Koster v. Perales [38,504], 724
Levy v. Bowen [43,624], 181, 1305
Lopez v. Sullivan, 1372
Lovig v. Bowen [45,255], 1305
MacLaird v. Werger, 1463
McDonald v. Secretary of HHS [41,450], 1372
Meyer v. Colorado Found. for Medical Care [44,659], 582
Milliron v. Bowen, 559
Paige v. Sullivan, 1372
Salmi v. Secretary of HHS, 706
Segundo v. Rancho Mirage City, 567
Sheely v. Wisconsin Dep't of Health & Social Servs. [43,864], 584
Snow v. Lucas County Dep't of Human Servs. [44,698], 583
Sullivan v. Hudson, 558
Texas State Teachers Ass'n v. Garland Indep. School Dist., 213
Williams v. Sullivan [42,853], 1372

SECTION 1983 SUITS

D., S. v. Faulkner, 283
Duran v. Carruthers [43,262], 1372, 1380
Twomey v. Indiana Dep't of Pub. Welfare [44,674], 607

SECTION 1988 SUITS

Meyer v. Colorado Found. for Medical Care [44,659], 582
Snow v. Lucas County Dep't of Human Servs. [44,698], 583
Texas State Teachers Ass'n v. Garland Indep. School Dist., 213
Wilcox v. Ives [40,813], 1008

SETTLEMENTS

C., Shelly v. Venus Indep. School Dist., 985
Coleman v. Fiore Bros., Inc., 82
Garcia v. Bowen, 82
Halderman v. Pennhurst State School & Hosp. [12,902], 1570
Hernandez v. Monterey Village Assocs. [39,523], 214
Hyden v. Board of Educ. of Wilson County, 985
Meyer v. Colorado Found. for Medical Care [44,659], 582
Polendo v. Johnston [43,256], 1351
Smith v. Bowen [43,348], 213
Torres v. Lyng [45,029], 1017

> Conditions

Cook v. Ochsner Found. Hosp. [3973], 606
Phillips v. Allegheny County, Pa., 283

SOVEREIGN IMMUNITY

Barry v. Bowen, 1374
Missouri v. Jenkins, 558
Trout v. Garrett, 1570

TIME SPENT ON FEE APPLICATION

Chynoweth v. Bowen [44,462], 171
Jean v. Nelson, 81
Kelly v. Bowen, 81
Lee v. Sullivan, 1463
McDonald v. Secretary of HHS [41,450], 1372
McNeill v. HHS, 985
Robinson v. Sullivan, 1372
Stocks v. Sullivan, 1373

TIMELINESS OF MOTION

First Family Mortgage Corp. of Fla. v. Crane [44,536], 300
Martindale v. Sullivan, 1463
McDowell v. South Carolina Dep't of Social Servs. [43,770], 1570
Moore v. Porter [45,239], 1306
Myers v. Sullivan, 706
Thompson v. Sullivan, 1372
United States v. Hopkins Dodge Sales, Inc., 558
Urban League v. Mayor & Council, 985

TRAVELING TIME

Jean v. Nelson, 81

ATTORNEYS

See also ATTORNEY FEES

Mallard v. United States Dist. Court for the S. Dist. of Iowa [44,625], 300

ATTORNEY-CLIENT PRIVILEGE

Bersani v. Bersani, 1464

CONFLICT OF INTEREST

Executive Comm'n on Ethical Standards, *In re*, 985
Illinois State Bar Ass'n Ethics Opinion re Conflict of Interest, *In re* [44,726], 585
Parks v. Romans, 1375

EFFECTIVE ASSISTANCE OF COUNSEL

Advisory Opinion HRS Nonlawyer Counselor, *In re* [42,731], 1373
Jewell v. Maynard, 1373

INTEREST ON LAWYERS' TRUST ACCOUNTS

California Legal Servs. Trust Fund, *In re* [44,637], 301
National Center for Youth Law v. LSC [45,500], 1546

JUDICIAL PROCESS

Misuse

Homestead Sav. v. Parnell [45,289], 1308
Magness v. Magness, 708
Thompson v. Sundholm, 1571

AUTOMOBILES

See also CONSUMER, DRIVER'S LICENCE, INSURANCE, REPOSSESSION

Mullen v. Al Castrucci Ford, Inc., 560

DEALERS

Walt Bennett Ford, Inc. v. Keck, 560

DECEPTIVE TRADE PRACTICES

Britton v. Bill Anselmi Pontiac-Buick-GMC [45,441], 1547
Cox v. 8th St. Auto Sales [45,253], 1311
Manwaring v. Century Toyota [44,326], 728
Walt Bennett Ford, Inc. v. Keck, 560
Washburn v. Vandiver, 560

FINANCING

American Sec. Corp. v. Morrow [45,396], 1438

INSURANCE

Deceptive Practices

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs, 1465

Termination Procedures

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs, 1465

ODOMETER READING REQUIREMENTS

Cox v. 8th St. Auto Sales [45,253], 1311
Manwaring v. Century Toyota [44,326], 728
New v. S&B Used Cars [45,384], 1437
Washburn v. Vandiver, 560

REPAIRS

Britton v. Bill Anselmi Pontiac-Buick-GMC [45,441], 1547

Breach of Contract

Walt Bennett Ford, Inc. v. Keck, 560

Faulty Repairs

Check Reporting Servs. v. Burton [44,597], 306

REPOSSESSION

Brooks v. Wachovia Bank & Trust [45,393], 1437
Chrysler Dodge Country, U.S.A. v. Curley [45,254], 1312
Cox v. 8th St. Auto Sales [45,253], 1311
Loyola Fed. Sav. & Loan v. Smith [45,212], 1313
Loyola Fed. Sav. & Loan v. Edler [45,203], 1313

SALES

Procedures

Britton v. Bill Anselmi Pontiac-Buick-GMC [45,441], 1547

USED AUTOMOBILES

Britton v. Bill Anselmi Pontiac-Buick-GMC [45,441], 1547

Warranties

> Implied

New v. S&B Used Cars [45,384], 1437

WARRANTIES

General Motors Corp. v. Abrams, 214
Walt Bennett Ford, Inc. v. Keck, 560

BANKRUPTCY

ADVERSARIAL PROCEEDINGS

Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809], 1434
Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,711], 586
Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,799], 586

AUTOMATIC STAY

Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,711], 586
Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,799], 586
Colon v. Hart (*In re* Colon) [44,881], 725
Smith v. First Am. Bank, N.A., 707
Stone v. Richardson [44,917], 725
Watts v. Pennsylvania Hous. Fin. Co. [42,578], 585
Yates, *In re* [45,364], 1432

CHAPTER 13

Associates Commercial Corp. v. Langston, 1464
Norton v. Tennessee Dep't of Safety (*In re* Norton), 214
Pennsylvania Dep't of Pub. Welfare v. Davenport [43,294], 1548
Pennsylvania Dep't of Pub. Welfare v. Johnson-Allen [42,156], 172

Best-Interest Test

Lewis, *In re*, 707

Confirmation

Szostek, *In re* [45,281], 1306

Good Faith Requirement

Handeen v. LeMaire (*In re* LeMaire), 1373
Saylors, *In re*, 284
Smith v. First Am. Bank, N.A., 707

Mortgage Foreclosure

Butler v. Lomas & Nettleton Co., 82
Byrd v. Midwest Real Estate Inv. [44,702], 587
Byrd, *In re* [44,701], 587
Equitable Life Assurance Soc'y v. Anderson, 559
Huderson v. HUD (*In re* Huderson) [45,100], 1029
Santos v. HUD, 186
Saylors, *In re*, 284
Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601], 304

CHAPTER 7

Gaglia v. First Fed. Sav. & Loan Ass'n, 1464
Jones v. Manns (*In re* Manns) [44,683], 587, 724
Saylors, *In re*, 284
Stedman v. Pederson (*In re* Pederson), 707
Sterling v. Wylie (*In re* Wylie) [44,592], 302
Via v. Colonia Am. Nat'l Bank (*In re* Via) [45,232], 1307
Whittaker v. Philadelphia Elec. Co. (Whittaker, In re), 1373

CONTEMPT

Stone v. Richardson [44,917], 725

CONVERSION OF DEBTOR'S PROPERTY BY BANK

Equitable Life Assurance Soc'y v. Anderson, 559
Smith v. First Am. Bank, N.A., 707

DISCHARGE

Motley v. Williams (*In re* Motley) [45,231], 1306
Pennsylvania Dep't of Pub. Welfare v. Davenport [43,294], 1548
Pennsylvania Dep't of Pub. Welfare v. Johnson-Allen [42,156], 172
Roberts v. IRS (*In re* Roberts) [44,771], 588
Sterling v. Wylie (*In re* Wylie) [44,592], 302

Assigned Debt

Huderson v. HUD (*In re* Huderson) [45,100], 1029

Collateral Estoppel

Jones v. Manns (*In re* Manns) [44,683], 587, 724

Intentional Torts

Handeen v. LeMaire (*In re* LeMaire), 1373
Jones v. Manns (*In re* Manns) [44,683], 587, 724

Judicial Liens

Associates Commercial Corp. v. Langston, 1464
Borman v. Leiker (*In re* Borman), 1373

Unsecured Debt

Lewis, *In re*, 707

DISCRIMINATION

Pace v. Housing Auth. of Burkesville (*In re* Pace) [45,440], 1548
Watts v. Pennsylvania Hous. Fin. Co. [42,578], 585

EXEMPTIONS

Heape, *In re*, 1373
Otoe County Nat'l Bank v. Easton (*In re* Easton), 1373

Homestead

Borman v. Leiker (*In re* Borman), 1373
Stedman v. Pederson (*In re* Pederson), 707

Voluntary Transfers

Via v. Colonia Am. Nat'l Bank (*In re* Via) [45,232], 1307

Wage Assignments

Kirby v. Sprouls [44,387], 58, 1012

FRAUD

Butler v. Lomas & Nettleton Co., 82

IN FORMA PAUPERIS

Sterling v. Wylie (*In re* Wylie) [44,592], 302

INDIVIDUAL REPAYMENT PLAN

Handeen v. LeMaire (*In re* LeMaire), 1373

INVOLUNTARY ASSIGNMENT

Via v. Colonia Am. Nat'l Bank (*In re* Via) [45,232], 1307

LIEN AVOIDANCE

Borman v. Leiker (*In re* Borman), 1373
Byrd v. Midwest Real Estate Inv. [44,702], 587
Byrd, *In re* [44,701], 587
Gaglia v. First Fed. Sav. & Loan Ass'n, 1464
Heape, *In re*, 1373
Lewis, *In re*, 707
Stedman v. Pederson (*In re* Pederson), 707

POST-PETITION

Collection Practices

Colon v. Hart (*In re* Colon) [44,881], 725

PROOF OF CLAIMS

Handeen v. LeMaire (*In re* LeMaire), 1373
Lewis, *In re*, 707
Byrd v. Midwest Real Estate Inv. [44,702], 587
Byrd, *In re* [44,701], 587

BLACK LUNG BENEFITS

DELAY IN PROCESSING

Committee on Legal Ethics v. Triplett, 214, 284

ELIGIBILITY AS PRIMARY DEFENSE

Cresto v. Director, Office of Workers' Compensation Programs [43,296], 743
Taylor v. Peabody Coal Co., 1573
Tennessee Consol. Coal Co. v. Crisp, 85
Wensel v. Director, Office of Workers' Compensation Programs, 1469
Wolf Creek Collieries v. Robinson, 564

JUDICIAL REVIEW

Adams v. Director, OWCP, 1469
Lukosevicz v. Director, OWCP, 1469
Taylor v. Peabody Coal Co., 1573
Tennessee Consol. Coal Co. v. Crisp, 85
Thomas v. United States Steel Corp., 286
Tonelli v. Director, Office of Workers' Compensation Programs, DOL, 990
Wensel v. Director, Office of Workers' Compensation Programs, 1469
Wiley v. Consolidation Coal Co., 1573

RESPONSIBILITY FOR BENEFITS

Office of Workers' Compensation Programs, DOL v. Consolidation Coal Co., 1378

CENSUS

Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

CIVIL PROCEDURE

See also ADMINISTRATIVE LAW, DUE PROCESS

Homestead Sav. v. Parnell [45,289], 1308

ABSTENTION

C. v. Hornsby [45,438], 1561
Harrison v. Sobol, 285
Kelly v. Lopeman [41,535], 588
Liedel v. Juvenile Court of Madison County, Ala., 1571
Mehta v. Surles, 1469
Schall v. Joyce [43,896], 1373

ACCESS TO COURTS

Schulz v. North Dakota Dep't of Human Servs. [45,391], 1433

ADMISSIONS

Gregory v. Gregory [45,110], 1009

ANSWERS

Affirmative Defenses

Edwards v. Fenn, 991

APPEALS

Appealability

B., *In re* [45,331], 1450
Meadow Park Garden Assocs. v. Canley, 711
Villa Del Sol Apartments v. Gill [44,610], 328

Bonds

Cronkhite v. Kemp [45,371], 1448
Villa Del Sol Apartments v. Gill [44,610], 328
Younger v. Mitchell [45,278], 997, 1308

Extension of Filing Time

Johnson v. Employment Sec. Comm'n of N.C. [44,768], 633
Silva v. Department of Employment Sec. [45,406], 1550

Fees and Expenses

Fullan v. Commissioner of Corrections, 1570
Schulz v. North Dakota Dep't of Human Servs. [45,391], 1433

Interlocutory Orders

Langley v. Coughlin, 569, 1472
Zambrano v. INS [43,351], 747, 1560

Notice

National Center for Immigrants' Rights v. INS [35,810], 1571

Pauper's Oath

Lewelling v. Lewelling, 988

Scope of Review

Peppers v. Barry [43,861], 572, 726

Statutory Right

Small v. Secretary of HHS, 1574

Stay of Judgment

Vanscoter v. Thompson [41,726], 340, 761

Waiver of Costs

Lewelling v. Lewelling, 988
North Dakota *ex rel.* Graham v. Hatch [44,873], 726

BONDS

Appeals

Villa Del Sol Apartments v. Gill [44,610], 328

Removal

City of Ashland v. Cooper, 82

CAUSE OF ACTION

M. v. Johnson, 1573

Federal Statutory Rights

> Section 1983

Pruticka v. Posner, 991

COLLATERAL ESTOPPEL

Callison v. Naylor, 986
Clapper v. Budget Oil Co., 563
DiAngelo v. Illinois Dep't of Pub. Aid, 1570
Erebia v. Chrysler Plastic Prods. Corp., 1570
Pennsylvania *ex rel.* Coburn v. Coburn, 709
Simcox v. Simcox, 1466

COMPLAINTS

Lopez v. Davidian [44,067], 324, 1560
Wilson v. Lynaugh, 993

Failure to State Claim

Chipps v. United States Dist. Court for the Middle Dist. of Pa., 986
Neitzke v. Williams, 284
Tyler v. Housing Auth. of Kansas City, 1573

Pleading Special Matters

Manwaring v. Century Toyota [44,326], 728

CONFESSION OF JUDGMENT

Schall v. Joyce [43,896], 1373

CONSENT DECREES

Beaver v. Kingman [45,481], 1549

Durrett v. Housing Auth. of Providence [45,445], 1555
Society for Good Will for Retarded Children v. Cuomo [26,198], 1378

Class Actions

Slezak v. Leeke, 284

Collateral Attacks

American Health Care Ass'n v. Sullivan [45,388], 1432

Modification

Duran v. Carruthers [43,262], 1372, 1380
Heath v. DeCourcy [42,342], 1452

Refusal to Enter

Little Rock School Dist. v. Pulaski County Special School Dist., 1374

CONTEMPT

Civil

Baltimore City Dep't of Social Servs. v. Bouknight [45,027], 1033
Herrera, Marriage of, *In re*, 561
Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico, 1471
Morgan v. Foretich, 1465
Peppers v. Barry [43,861], 572, 726
R/L Assoc., Inc. v. City of Seattle, 1470
Russell v. Sullivan, 1463
Sanders v. Shephard [43,579], 733

COSTS

James v. Quinlan, 219, 1373
Tedder v. Odel, 1464
Tiedel v. Northwestern Mich. College, 81
Williams v. Hevi-Duty Elec. Co. [41,107], 174

COUNTERCLAIMS

Assignment

Indiana Nat'l Bank v. Giger [45,418], 1551

Permissive

Brady v. C.F. Schwartz Motor Co., Inc., 1464

Third-Party Practice

Check Reporting Servs. v. Burton [44,597], 306

DEFAULT JUDGMENT

Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555

Vacation of

> Conditions

Facio v. Jones, 986

DEFENSES

Affirmative

Mercer v. Yeutter [44,890], 736, 897

DEMURRER

To Answer

Housing Auth. of Pittsburgh v. Green, 85

DISCOVERY

Availability

J. v. Jones [31,293], 1308

Compelled Discovery

Brewer v. Lyng [43,174], 1557

Interrogatories

Fenelon v. Talisman Sugar Corp. [45,442], 1549

Motions

Brewer v. Lyng [43,174], 1557

Non-Discovery Sources

J. v. Jones [31,293], 1308

Privileged Matter

Arizona v. Spano [44,443], 179
Baltimore City Dep't of Social Servs. v. Bouknight [45,027], 1033
J. v. Jones [31,293], 1308

Protective Order

Brewer v. Lyng [43,174], 1557
J. v. Jones [31,293], 1308
Maxey v. Fulton, 1464

Request for Admissions

Brewer v. Lyng [43,174], 1557

Request for Production of Documents

Brewer v. Lyng [43,174], 1557

Sanctions

Pribek v. Secretary of HHS, 1372

DISCRETION OF COURT

Abstention Doctrine

Liedel v. Juvenile Court of Madison County, Ala., 1571

Sua Sponte

Quiban v. VA, 1475

DISMISSAL OF ACTION

Neitzke v. Williams, 284

Defects in Jurisdiction

Dorman v. Eichler [45,327], 1461
Liedel v. Juvenile Court of Madison County, Ala., 1571
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726
Walsh v. Clare Ltd. Dividend Hous. Ass'n [45,369], 1446

Failure to Comply with Orders

Washington Hosp. v. White, 1464

Grounds

Bunch v. El Paso Hous. Auth. [45,257], 1331
Chipps v. United States Dist. Court for the Middle Dist. of Pa., 986

Indispensable Party

Zeien v. Palmer [44,729], 637

Stipulation

Washington Hosp. v. White, 1464

With Prejudice

Harris v. Kyle [44,583], 303
Turner v. City of New Orleans [42,804], 1569

ESTOPPEL

Azizi v. Thornburgh, 1379
Cunningham v. Cunningham, 83
Ewing v. Douglas [45,271], 1309
Goodwin v. District Court [45,126], 1010
Jackson v. Rhode Island Dep't of Human Servs. [45,372], 1461
Lentz v. McMahon [35,114], 913

EXHAUSTION OF REMEDIES

Ahghazali v. Secretary of HHS, 220
Briggs v. Sullivan [44,289], 332, 1039
Haitian Refugee Center, Inc. v. Nelson, 559

FEDERAL COURTS

Jurisdiction

Facio v. Jones, 986
Liedel v. Juvenile Court of Madison County, Ala., 1571
Small v. Secretary of HHS, 1574

> Objections

Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726
Osceola v. Florida Dep't of Revenue, 287

Pendent Jurisdiction

Armstrong v. Edelson [44,410], 894
Clements, *In re*, 986
Facio v. Jones, 986

Removal

Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726
Oklahoma Tax Comm'n v. Graham, 218

HABEAS CORPUS

B., A., *In re*, 1574
DeMent v. Oglala Sioux Tribal Court, 712

Procedure

Busch v. Busch, 1465

Request to Produce

Williams v. Forrest [44,907], 752

IMMUNITY

Burr v. Sobol [45,322], 1469
C. v. Hornsby [45,438], 1561
Langley v. Coughlin, 569, 1472
Sheffield v. Coler [44,547], 340, 1047
Zeigler v. Kirschner [43,398], 1470

Qualified

Arnold v. Jones, 1574
Gittens v. Sullivan, 1381
H., J.H. v. O'Hara, 991
Maxey v. Fulton, 1464
Rothschild v. Grottenthaler, 1378, 1573
Ryan v. Burlington County, 569
Torner v. Reagen, 559
Weaver v. New York City Employees' Retirement Sys., 1381

Sovereign

Bennett v. White [27,044], 635, 1351
Booyer v. United States [45,424], 1550
Cotton v. Babcock [37,134], 598
Dellmuth v. Muth, 559
Dubuque v. Yeutter [44,733], 600, 1017
Duran v. Carruthers [43,262], 1372, 1380
Ford v. Lane, 993
Gray v. Rankin, 1465
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
Krozser v. City of New Haven, 986
Lucas v. King [42,577], 636, 1349
Mercer v. Yeutter [44,890], 736, 897
Pennsylvania v. Union Gas Co., 564
Society for Good Will for Retarded Children v. Cuomo [26,198], 1378
Tyler v. Housing Auth. of Kansas City, 1573
Walker, *In re*, 1465
Will v. Michigan Dep't of State Police, 559

INJUNCTIONS

Chipps v. United States Dist. Court for the Middle Dist. of Pa., 986
Hernandez v. Cremer [44,584], 324
Peppers v. Barry [43,861], 572, 726

Preliminary Injunction

Briggs v. Sullivan [44,289], 332, 1039
International Union, UAW v. Dole [44,447], 201, 758, 1346

INTERROGATORIES

Fenelon v. Talisman Sugar Corp. [45,442], 1549

INTERVENTION

By Right

Zelda, *In re*, 217

JUDGMENTS

Claims Preclusion

Pennsylvania *ex rel.* Coburn v. Coburn, 709

Collateral Estoppel

Erebia v. Chrysler Plastic Prods. Corp., 1570

Enforcement

Vorster v. Sullivan [37,838], 564, 1020

> Stays

Colonial Am. Dev. v. Griffith [44,682], 615, 1549
Vanscoter v. Thompson [41,726], 340, 761

Finality

Thompson v. Sullivan, 1372
Vorster v. Sullivan [37,838], 564, 1020

Full Faith and Credit

Weidner v. Weidner, 215

Vacation of Judgments

Johnson v. Hunter, 1466

JURISDICTION

Liedel v. Juvenile Court of Madison County, Ala., 1571

Appearance

> Consent to Jurisdiction

Milano v. Jones [44,895], 727

Appellate Courts

Harper, Marriage of, *In re*, 1572
Smith v. Justice of the Peace Court No. 1 [45,348], 1451

Case and Controversy

Walsh v. Clare Ltd. Dividend Hous. Ass'n [45,369], 1446

Consent

Beaver v. Kingman [45,481], 1549
Krozser v. City of New Haven, 986

Defects in Jurisdiction

> Dismissals

Breen v. Jarvis, 83
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726

> Subject Matter

Gregory v. Gregory [45,110], 1009
Ingram v. Hayes, 83
Thompson v. Sundholm, 1571

Diversity of Citizenship

Ingram v. Hayes, 83

Exhaustion of Remedies

Begley v. Sullivan [43,966], 909
DeMent v. Oglala Sioux Tribal Court, 712
Dorman v. Eichler [45,327], 1461

Federal Question

Seneca-Cayuga Tribe v. Oklahoma, 712

> Administrative Question

Zambrano v. INS [43,351], 747, 1560

> Government Official or Agency

Haitian Refugee Center, Inc. v. Nelson, 559
Quezada-Gomez v. INS, 1471

> Question Appearing on Face of Complaint

Oklahoma Tax Comm'n v. Graham, 218

> Standing

Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726

Immunity

Dellmuth v. Muth, 559
Krozser v. City of New Haven, 986
Mosley v. Barry [44,151], 638
Pennsylvania v. Union Gas Co., 564

In Personam

Cochran v. Wallace, 988

Long Arm Statute

Michel v. American Capital Enters. [45,261], 1307

Objections

Hernandez v. Cremer [44,584], 324

Pendent

Liscio v. Warren, 1380

Personal

> Defects

Breen v. Jarvis, 83
Michel v. American Capital Enters. [45,261], 1307

Removal of Actions

> Case in State Court

Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,799], 586
Clements, *In re*, 986
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726

> Remand

Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,799], 586
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726

Service of Process

> Insufficiency

Goss v. Goss, 1466

Waiver

Krozser v. City of New Haven, 986

JURY TRIAL

Bereda v. Pickering Creek Indus. Park, Inc., 82
Lamarre v. Cipolla [44,745], 588
Meadow Park Garden Assocs. v. Canley, 711

LACHES

Teeter v. Supplemental Pension Plan of Consol. Rail Corp., 289
Weidner v. Weidner, 215

MANDAMUS

Mills v. Howe [44,598], 304
Oregon *ex rel.* Wardell v. Del Langdon [45,166], 1316

Discovery Orders

Smith v. Superior Court of Ariz. [44,715], 594

MOOTNESS

Dallas Gay Alliance v. Dallas County Hosp. Dist., 1378
Edwards v. Fenn, 991
Harrison v. Sobol, 285
Mosley v. Barry [44,151], 638
Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia, 710
Schall v. Joyce [43,896], 1373

Live Controversy

Hanson v. Clark County, Iowa, 216

MOTIONS

Thompson v. Sullivan, 1372

Ex Parte

Antonellis v. Justices of the Brighton Dist. Court [45,417], 1551

Pretrial

Mercer v. Yeutter [44,890], 736, 897

MULTIPLE PARTIES

Third Parties

Clements, *In re*, 986

NEW TRIAL

Weight of Evidence

Cochran v. Wallace, 988

PARTIES

Indispensable

Neighbors for a Better Approach v. NEPA, 565

Intervention

American Health Care Ass'n v. Sullivan [45,388], 1432
Illinois v. Woodstock Assocs., I [45,361], 1321

Proper Parties

Brown v. Board of Educ. of Topeka, 1572

PLEADINGS

Filing

Silva v. Department of Employment Sec. [45,406], 1550

Specificity

Manwaring v. Century Toyota [44,326], 728

PRIVATE RIGHT OF ACTION

Brown v. Ledbetter [41,201], 761, 1438
Doe v. Attorney Gen. of United States, 1470
Doe v. Department of Pub. Welfare [45,284], 1335
Graham v. Security Sav. & Loan [43,466], 734
Houston v. City of Cocoa [44,272], 1445
Illinois Health Care Ass'n v. Suter, 1378
Kinlaw v. California [42,872], 741
M. v. Johnson, 1573
McNeill v. New York City Hous. Auth., 1378
Tinsley v. Kemp [44,154], 1447
Brinkley v. Early [45,345], 1352

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

Armstrong v. Edelson [44,410], 894
Gonzalez v. North Am. College of La., Inc. [42,977], 83
Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
Johnson v. Rocky Top Motors [44,368], 59
Lanzarotta v. Trend Colleges [44,564], 311
Newman v. 1st 1440 Inv., Inc. [45,006], 1012

REMEDIES

Walker, *In re*, 1465
Whitehead v. Turnage, 89

RES JUDICATA

Arteaga v. Industrial Claim Appeals Office [38,764], 1471
Bennett v. Tucker, 1468
DiAngelo v. Illinois Dep't of Pub. Aid, 1570
Erebia v. Chrysler Plastic Prods. Corp., 1570
Harris v. Kyle [44,583], 303
Johnson v. Hunter, 1466
Miller v. Cowart, 1375
Pennsylvania *ex rel.* Coburn v. Coburn, 709
Rogerson v. Secretary of HHS, 570
Simcox v. Simcox, 1466
Smith v. Wells Fargo Credit Corp., 986

RIPENESS

Bobby v. Alaska, 1377
Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898
Jones v. Deutsch, 1374
Mehta v. Surles, 1469

STANDING TO SUE

Abraham v. Marist College, 285
Babouder v. Abdennur, 1467
Coker v. Bowen, 1378
Dallas Gay Alliance v. Dallas County Hosp. Dist., 1378
Doe v. Department of Pub. Welfare [45,284], 1335
Dubuque v. Yeutter [44,733], 600, 1017
Gorski v. Troy, 990
Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898
Heimberger v. School Dist. of City of Saginaw [43,026], 988
Hernandez v. Cremer [44,584], 324
Hill v. Farm Credit Bank of St. Louis, 1574
Houston v. City of Cocoa [44,272], 1445
Jones v. Cavazos [45,354], 1433
Jones v. Deutsch, 1374
Kaschak v. Raritan Valley Collection Agency [44,762], 591
Kinlaw v. California [42,872], 741
Leckband v. Naylor, 1381
Lee v. Kemp [43,709], 743
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726
Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [45,163], 1307
McNeill v. New York City Hous. Auth., 1378
Neighborhood Action Coalition v. Canton, Ohio, 1377
Pearl Meadows Mushroom Farm, Inc. v. Nelson, 1470
Richards v. Cullen, 1574

STATUTE OF LIMITATIONS

Cassidy v. Adams, 715
Grider v. Cavazos [45,214], 1312
Illinois *ex rel.* Kelly v. Pasko, 987
Spiegler v. District of Columbia, 214
Turner v. Bowen, 88
United States v. Thompson, 567
Whitehead v. Turnage, 89

Computation of Time

Jones v. Cavazos [45,354], 1433

> Borrowing Statute

Lewellen v. Morley, 707

> Enforcement of Judgment

Lewellen v. Morley, 707

> Secrecy

Dixon v. Bowen [36,027], 755

> Section 1983

Hardin v. Straub, 559
Owens v. Okure, 82

> Tolling

Aschettino v. Sullivan, 1474
Hardin v. Straub, 559
Lewellen v. Morley, 707

STAY

GMAC Mortgage Corp. of Pa. v. Watford [44,562], 619
Schall v. Joyce [43,896], 1373

Pending Appeal

Johnson v. Sullivan [35,037], 908

Mowbray v. Kozlowski [45,170], 1324, 1573
S. v. Flaherty [36,533], 750, 894
Southeastern Pa. Transp. Auth. v. Association of Community Orgs. for Reform Now, 1384
Vanscoter v. Thompson [41,726], 340, 761

SUBPOENAS

Tedder v. Odel, 1464

SUMMARY JUDGMENTS

Muhammad v. McMickens, 569
Pliley v. Sullivan, 1574
Wilder v. Tanouye, 1472

Discovery

Dixon v. Bowen [36,027], 755

Implications

Wilson v. Lynaugh, 993

TRANSCRIPTS

Cost

Fullan v. Commissioner of Corrections, 1570
North Dakota *ex rel.* Graham v. Hatch [44,873], 726

Indigents

Fullan v. Commissioner of Corrections, 1570
North Dakota *ex rel.* Graham v. Hatch [44,873], 726
Schulz v. North Dakota Dep't of Human Servs. [45,391], 1433

VENUE AND TRANSFER

Williams v. Illinois State Scholarship Comm'n [42,518], 303, 1433

Challenging

Duncan v. Corliss [44,968], 1032

Forum Non Conveniens

Duncan v. Corliss [44,968], 1032

WAIVER

Arteaga v. Industrial Claim Appeals Office [38,764], 1471
Cunningham v. Cunningham, 83
Goodwin v. District Court [45,126], 1010
Small v. Secretary of HHS, 1574

Motion Rights

Su Thi Nguyen v. Sullivan [45,282], 1343

WRITS

Smith v. Justice of the Peace Court No. 1 [45,348], 1451

CIVIL RIGHTS

See also DUE PROCESS, EQUAL PROTECTION, PRIVACY

DAMAGES

Yuhase v. County of Macomb, 559

DUE PROCESS

Azizi v. Thornburgh, 1379
Baptist v. Lane, 568
DeFehr v. Simmons, 1380
Montemayor v. Moomaw [45,114], 1033
Pella v. Adams, 87
Witters v. State Comm'n for the Blind, 560

EQUAL PROTECTION

Azizi v. Thornburgh, 1379
Illinois v. Madison [44,896], 727

FEDERAL FUNDING

Meek v. Martinez [42,981], 1473

Enforcement

Women's Equity Action League v. Cavazos, 986

FIRST AMENDMENT

Nelson v. City of Chicago [45,182], 1310
Thompson v. Board of Educ. of Chicago [45,034], 1011, 1310
Witters v. State Comm'n for the Blind, 560

FREEDOM OF ASSOCIATION

P. v. Johnson [43,990], 1034

FREEDOM OF RELIGION

American Friends Serv. Comm. v. Thornburgh, 1379
Berry, Marriage of, *In re*, 285
Muhammad v. McMickens, 569
Witters v. State Comm'n for the Blind, 560

FREEDOM OF SPEECH

Thompson v. Board of Educ. of Chicago [45,034], 1011, 1310

IMMUNITY

Babcock v. Tyler, 1380
Duran v. Carruthers [43,262], 1372, 1380
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
Maxey v. Fulton, 1464
Rothschild v. Grottenthaler, 1378, 1573
Torner v. Reagen, 559
Wilder v. Tanouye, 1472
Will v. Michigan Dep't of State Police, 559

MINORITY REPRESENTATION

Ragin v. The New York Times Co., 1571

PRO SE COMPLAINT

Sua Sponte Dismissal

Neitzke v. Williams, 284

SEARCH AND SEIZURE

Bangert v. Hodel, 285
Illinois v. Madison [44,896], 727
Montemayor v. Moomaw [45,114], 1033
Ocasio v. City of Lawrence [44,869], 763
Ramirez v. Webb [31,766], 904

SECTION 1981

Birdwhistle v. Kansas Power & Light Co., 1468

Discrimination

Bradley v. Carydale Enters., 287
Comer v. Kemp [45,360], 1447
Committee of Organized Groups v. City of Orlando [44,353], 60
Hall v. Cook County, Ill., 1376
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Mathis v. Boeing Military Airplane Co., 1376
Nelson v. City of Chicago [45,182], 1310
Padilla v. United Air Lines, 1376
Patterson v. McLean Credit Union, 562
Ragin v. The New York Times Co., 1571
Sherman v. Burke Contracting, Inc., 1572

SECTION 1982

Comer v. Kemp [45,360], 1447

SECTION 1983

Babcock v. Tyler, 1380
Brown v. Ledbetter [41,201], 761, 1438
C. v. Hornsby [45,438], 1561
Comer v. Kemp [45,360], 1447
Committee of Organized Groups v. City of Orlando [44,353], 60
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Houston v. City of Cocoa [44,272], 1445
J., E. v. Hamilton County, Ohio, 287
Liscio v. Warren, 1380
Lumpkin v. Burns, 87
Muhammad v. McMickens, 569
Owens v. Okure, 82
P. v. Johnson [43,990], 1034
Pruticka v. Posner, 991
Renfro v. Cuyahoga County Dep't of Human Servs., 1379
Rothschild v. Grottenthaler, 1378, 1573
Ryan v. Burlington County, 569
Torner v. Reagen, 559
Wilder v. Tanouye, 1472
Will v. Michigan Dep't of State Police, 559

SECTION 1985

Committee of Organized Groups v. City of Orlando [44,353], 60
Jones v. Deutsch, 1374

STANDING TO SUE

Women's Equity Action League v. Cavazos, 986

STATE ACTION

Country Village Tenant Ass'n v. Fairmount Heights Assocs. Ltd. Partnership [44,322], 64

TITLE VI

Comer v. Kemp [45,360], 1447
Committee for a Better N. Philadelphia v. Southeastern Pa. Transp. Auth. [43,324], 337
Cook v. Ochsner Found. Hosp. [3973], 606
Houston v. City of Cocoa [44,272], 1445
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
Neighborhood Action Coalition v. Canton, Ohio, 1377
Women's Equity Action League v. Cavazos, 986

CLASS ACTION

See also CIVIL PROCEDURE

ACTIONS MAINTAINABLE

Arnold v. Arizona Dep't of Health Servs., 992
Mosley v. Barry [44,151], 638

ADEQUACY OF REPRESENTATION

Dallas Gay Alliance v. Dallas County Hosp. Dist., 1378

CERTIFICATION

Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
Pottinger v. City of Miami, 1464

CLASS DEFINITION

Berg v. Gardebring [43,866], 205, 1048
Pottinger v. City of Miami, 1464

FEDERAL RULE 23

Sheffield v. Coler [44,547], 340, 1047
Tinsley v. Kemp [44,154], 1447

Adequacy of Representation

Pottinger v. City of Miami, 1464

Commonality

Graham v. Security Sav. & Loan [43,466], 734
Pottinger v. City of Miami, 1464

Typicality

Day v. Bowen [42,990], 199
Jenkins v. Bowen [43,698], 1456

JURISDICTION

Exhaustion of Administrative Remedies

Begley v. Sullivan [43,966], 909
Smith v. Bowen [43,894], 175

SETTLEMENTS

Slezak v. Leeke, 284

STATUTE OF LIMITATIONS

Tolling

Smith v. Bowen [43,894], 175

COMMUNITY DEVELOPMENT

HOUSING

Township of Bernards v. New Jersey Dep't of Community Affairs, 562
Turner v. United Cerebral Palsy Ass'n, 565

CONSUMER

See also ATTACHMENT, AUTOMOBILES, CONTRACTS, GARNISHMENT, LIENS, REPOSSESSION, TRUTH IN LENDING

ADVERTISING

Fleet v. United States Consumer Council [34,775], 591
Ragin v. The New York Times Co., 1571

BREACH OF WARRANTY

Walt Bennett Ford, Inc. v. Keck, 560

BURIALS

Prearrangement Plans

National Funeral Servs., Inc. v. Rockefeller, 560

CHECKING ACCOUNTS

Bell v. Nemeco, Inc. [44,329], 729
Tolbert v. First Nat'l Bank, 707

COLLECTION PRACTICES

D&D Screen Printing v. Oliver [45,158], 1313
Jones v. Bennett [44,324], 58
Michel v. American Capital Enters. [45,261], 1307
Schaerrer v. Westman Comm'n Co. [40,846], 59

Abuse of Process

Williams v. Illinois State Scholarship Comm'n [42,518], 303, 1433

Communication

Kaschak v. Raritan Valley Collection Agency [44,762], 591
Woolfolk v. Rubin [44,822], 1434

Deceptive Practices

Bell v. Nemeco, Inc. [44,329], 729
Britton v. Weiss [45,356], 1435
Evans v. Summs [45,376], 1436
Reed v. Continental Transactions, Inc. [44,906], 729
Touset v. Medicredit, Inc. [45,008], 1012
United States v. Continental Transactions [44,335], 729
United States v. Debt Collectors [44,336], 729

> Threats

Crossley v. Lieberman [43,302], 58
Moser v. Commerce Serv. Corp. [44,699], 592
Seaboy v. Credit Claims & Collections [44,903], 895

Emotional Distress

Stansberry v. Thorp Loan & Thrift [44,609], 306

Fair Debt Collection Practices Act

Evans v. Summs [45,376], 1436
Seiders v. Greenberg [45,238], 1311
Zanni v. Lippold [39,435], 176

> Abusive Notices

Reed v. Continental Transactions, Inc. [44,906], 729
United States v. Continental Transactions [44,335], 729
United States v. Debt Collectors [44,336], 729

> Collateral or Delinquent Taxes

Bell v. Nemeco, Inc. [44,329], 729

> Communication

Crockett v. Adjustment Serv. of Knoxville [44,886], 731
Henderson v. Credit Bureau of Lockport [45,349], 1436
Johnson v. Statewide Collections, Inc., 1374
Kaschak v. Raritan Valley Collection Agency [44,762], 591
Seaboy v. Credit Claims & Collections [44,903], 895
Spencer v. Credit Bureau of Lockport [45,350], 1436
Stewart v. Salzman [44,333], 729
Woolfolk v. Rubin [44,822], 1434
Young v. Credit Bureau of Lockport [45,351], 1436

> Deceptive Notices

Britton v. Weiss [45,356], 1435
Crossley v. Lieberman [43,302], 58
Games v. United Student Aid Funds [44,696], 590
Moser v. Commerce Serv. Corp. [44,699], 592
Pipiles v. Credit Bureau of Lockport [44,083], 1011
Reed v. Continental Transactions, Inc. [44,906], 729
Seabrook v. Onondaga Bureau of Medical Economics [44,460], 177
United States v. Continental Transactions [44,335], 729
United States v. Debt Collectors [44,336], 729
Woolfolk v. Rubin [44,822], 1434

> Notice Requirements

Emanuel v. American Credit Exch. [44,040], 175
Games v. United Student Aid Funds [44,696], 590
Henderson v. Credit Bureau of Lockport [45,349], 1436
Johnson v. Statewide Collections, Inc., 1374
Kaschak v. Raritan Valley Collection Agency [44,762], 591
Pipiles v. Credit Bureau of Lockport [44,083], 1011
Seabrook v. Onondaga Bureau of Medical Economics [44,460], 177
Spencer v. Credit Bureau of Lockport [45,350], 1436
Young v. Credit Bureau of Lockport [45,351], 1436

> Student Loans

Games v. United Student Aid Funds [44,696], 590
Woolfolk v. Rubin [44,822], 1434

> Validity of Debt

Games v. United Student Aid Funds [44,696], 590
Hernandez v. Statewide Credit & Collection Bureau [44,575], 590
Johnson v. Statewide Collections, Inc., 1374
Kaschak v. Raritan Valley Collection Agency [44,762], 591

False and Misleading Statements

Evans v. Summs [45,376], 1436
Reed v. Continental Transactions, Inc. [44,906], 729
United States v. Continental Transactions [44,335], 729
United States v. Debt Collectors [44,336], 729

> Threat of Legal Action

Crockett v. Adjustment Serv. of Knoxville [44,886], 731
Crossley v. Lieberman [43,302], 58
Games v. United Student Aid Funds [44,696], 590
Moser v. Commerce Serv. Corp. [44,699], 592
Seaboy v. Credit Claims & Collections [44,903], 895
Seabrook v. Onondaga Bureau of Medical Economics [44,460], 177
Woolfolk v. Rubin [44,822], 1434

Fees

Bell v. Nemeco, Inc. [44,329], 729
HCA Health Servs. of Va. v. Peters [44,663], 584

Harassment

Gonzales v. AM Community Credit Union, 986
Henderson v. Credit Bureau of Lockport [45,349], 1436
Marable v. Lee County [45,224], 1356
Reed v. Continental Transactions, Inc. [44,906], 729
Stewart v. Salzman [44,333], 729
United States v. Continental Transactions [44,335], 729
United States v. Debt Collectors [44,336], 729

Insufficient Fund Checks

Bell v. Nemeco, Inc. [44,329], 729
Tolbert v. First Nat'l Bank, 707

Statute of Limitations

Hernandez v. Statewide Credit & Collection Bureau [44,575], 590
Jones v. Cavazos [45,354], 1433

Statutory Damages

Crossley v. Lieberman [43,302], 58
Emanuel v. American Credit Exch. [44,040], 175
Kaschak v. Raritan Valley Collection Agency [44,762], 591

Unfair Practices

Chambers v. Marathon Home Loans [44,710], 586
Marable v. Lee County [45,224], 1356
Seiders v. Greenberg [45,238], 1311
Zanni v. Lippold [39,435], 176

CONSUMER FRAUD ACT

Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809], 1434
Armstrong v. Edelson [44,410], 894
Coleman v. Fiore Bros., Inc., 82
Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
Lanzarotta v. Trend Colleges [44,564], 311

CONSUMER PROTECTION ACT

Crockett v. Adjustment Serv. of Knoxville [44,886], 731
Crockett v. Dobbs, 986
General Motors Corp. v. Abrams, 214
Gonzales v. AM Community Credit Union, 986
Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601], 304
Therrien v. Resource Fin. Group [43,098], 176, 304

CREDIT PRACTICES

Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
James v. ITT Fin. Servs. [45,181], 1314
Starks v. Rent-A-Center [45,215], 1313
United States v. John Wanamaker, Philadelphia [44,328], 730

Conditions of Loans

Smith v. Wells Fargo Credit Corp., 986

Credit Checks

Mullen v. Al Castrucci Ford, Inc., 560

Written Reasons for Refusal of Credit

FTC v. Green Tree Acceptance [44,327], 731

CREDIT REPORTS

Landlord Reporting Service

Cisneros v. The U.D. Registry, Inc. [42,584], 748
Swartz v. Gantz Inv. Properties [42,572], 1437

DAMAGES

Collection Practices

Kaschak v. Raritan Valley Collection Agency [44,762], 591
Pipiles v. Credit Bureau of Lockport [44,083], 1011

DEBTOR HARASSMENT

Gonzales v. AM Community Credit Union, 986

DECEPTIVE PRACTICES

Adams v. Adams (*In re* Adams) [44,267], 173
Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809], 1434
Chambers v. Marathon Home Loans [44,710], 586
Cox v. 8th St. Auto Sales [45,253], 1311
Diggs v. Bancplus Mortgage [45,365], 1438
Figueroa v. Market Training Inst. [43,212], 311
Fleet v. United States Consumer Council [34,775], 591
Hawkins v. Thorp Credit & Thrift Co., 986
Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
Wade v. Jobe [45,423], 1562
White v. Pollock [44,573], 307

Evidence

Green Tree Acceptance, Inc. v. Pierce, 560

DEEDS OF TRUST

Chambers v. Marathon Home Loans [44,710], 586

DEFAULT

Jones v. Cavazos [45,354], 1433

DEFICIENCY JUDGMENT

Commercially Reasonable Sale

Chrysler Dodge Country, U.S.A. v. Curley [45,254], 1312
Cox v. 8th St. Auto Sales [45,253], 1311

Limitations

Loyola Fed. Sav. & Loan v. Edler [45,203], 1313
Loyola Fed. Sav. & Loan v. Smith [45,212], 1313

Private Sales

Mellon Bank v. Dougherty [43,841], 895, 1312

DISCRIMINATION

Carruthers v. Prudential Ins. Co. [39,669], 593
FTC v. Green Tree Acceptance [44,327], 731
Ragin v. The New York Times Co., 1571
United States v. John Wanamaker, Philadelphia [44,328], 730

EQUAL CREDIT OPPORTUNITY ACT

United States v. John Wanamaker, Philadelphia [44,328], 730

Unfair Lending Practices of Banks

Perez v. Bank of the W. [44,263], 596

Written Reasons for Refusal of Credit

FTC v. Green Tree Acceptance [44,327], 731

EXECUTION SALES

Florida v. Andres, 1571

FAIR CREDIT REPORTING ACT

Cisneros v. The U.D. Registry, Inc. [42,584], 748

Consumer Reporting Agency

> Definition

Cotto v. Jenney [44,802], 1435
Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555

Defamation

Cotto v. Jenney [44,802], 1435

Disclosure of Records

FTC v. Green Tree Acceptance [44,327], 731
Mullen v. Al Castrucci Ford, Inc., 560

FRAUD AND MISREPRESENTATION

Figueroa v. Market Training Inst. [43,212], 311
Indiana Nat'l Bank v. Giger [45,418], 1551
Lanzarotta v. Trend Colleges [44,564], 311
Manwaring v. Century Toyota [44,326], 728
New v. S&B Used Cars [45,384], 1437

General

Chambers v. Marathon Home Loans [44,710], 586
Fleet v. Rhode [44,678], 591
Fleet v. United States Consumer Council [34,775], 591
Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011

Liability of Assignee

Armstrong v. Edelson [44,410], 894

Promotional Schemes

Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809], 1434
Fleet v. Rhode [44,678], 591
Fleet v. United States Consumer Council [34,775], 591

HOLDER IN DUE COURSE

Check Reporting Servs. v. Burton [44,597], 306

HOME IMPORVEMENT CONTRACTS

Fidelity Fin. Servs. v. Hicks [44,607], 305
Rivas v. Goldome Credit [45,120], 1013

Deceptive Practices

Czyzowicz v. Dartmouth Plan [45,268], 1312
Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011
Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601], 304

Fraud and Misrepresentation

Armstrong v. Edelson [44,410], 894

Truth in Lending Violations

Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601], 304

HOME SALES

Diggs v. Bancplus Mortgage [45,365], 1438

INSTALLMENT SALES

American Sec. Corp. v. Morrow [45,396], 1438
White v. Pollock [44,573], 307

Default Charges

Heastie v. Community Bank of Greater Peoria [43,723], 590, 1011

Usury

Crumley v. Berry, 284
Johnson v. Rocky Top Motors [44,368], 59

JUDGMENT LEVY EXEMPTIONS

Kirby v. Sprouls [44,387], 58, 1012

LAND SALES

Fleet v. Rhode [44,678], 591
White v. Pollock [44,573], 307

LIENS

Florida v. Andres, 1571
Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730
Moore v. Republic Moving & Storage [44,427], 191
Rivas v. Goldome Credit [45,120], 1013

LOANS

American Sec. Corp. v. Morrow [45,396], 1438
Chambers v. Marathon Home Loans [44,710], 586
Czyzowicz v. Dartmouth Plan [45,268], 1312
Fidelity Fin. Servs. v. Hicks [44,607], 305
Grider v. Cavazos [45,214], 1312
Griffin v. Federal Land Bank of Wichita, 569
Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730
James v. ITT Fin. Servs. [45,181], 1314
Newman v. 1st 1440 Inv., Inc. [45,006], 1012
Smith v. Fidelity Consumer Discount [43,229], 728
Smith v. Wells Fargo Credit Corp., 986
Stansberry v. Thorp Loan & Thrift [44,609], 306
Therrien v. Resource Fin. Group [43,098], 176, 304
Victoria Bank & Trust Co. v. Brady, 1465

MAIL ORDERS

Colonial Penn Life Ins. Co., *In re* [44,451], 307

MOBILE HOMES

FTC v. Green Tree Acceptance [44,327], 731

Antitrust

Dibiase v. State Mobile Homes [44,744], 623

Fraud in Sales

Green Tree Acceptance, Inc. v. Pierce, 560

Misrepresentation in Park Leases

Dibiase v. State Mobile Homes [44,744], 623

Repossession

Erdmann v. Rants [44,788], 733
Mellon Bank v. Dougherty [43,841], 895, 1312

Warranties

Green Tree Acceptance, Inc. v. Pierce, 560

ODOMETER TAMPERING

Manwaring v. Century Toyota [44,326], 728
Washburn v. Vandiver, 560

RENTAL AGREEMENTS

Rent-to-Own

Crumley v. Berry, 284
Starks v. Rent-A-Center [45,215], 1313

REPOSSESSION

Erdmann v. Rants [44,788], 733
New v. S&B Used Cars [45,384], 1437

RESCISSION

Bryant v. Goldome Credit [44,765], 592
Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730
Jackson v. Grant, 1465
Smith v. Wells Fargo Credit Corp., 986

RETAIL INSTALLMENT SALES ACT

Rivas v. Goldome Credit [45,120], 1013

SECURED TRANSACTIONS

Bennett v. Seave, 284

SECURITY INTEREST

Bennett v. Seave, 284
Stansberry v. Thorp Loan & Thrift [44,609], 306

SHERIFF'S SALE

Equitable Life Assurance Soc'y v. Anderson, 559

UNCONSCIONABILITY

Indiana Nat'l Bank v. Giger [45,418], 1551

UNFAIR AND DECEPTIVE TRADE PRACTICES

Adams v. Adams (*In re* Adams) [44,267], 173
Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809], 1434
Connelly v. Housing Auth. of New Haven [45,226], 1332, 1448
Czyzowicz v. Dartmouth Plan [45,268], 1312
Dale v. Sierra Pac. Power Co. [44,923], 752
Diggs v. Bancplus Mortgage [45,365], 1438
Jungkurth v. Eastern Fin. Servs. [44,624], 301
Smith v. Fidelity Consumer Discount [43,229], 728
Victoria Bank & Trust Co. v. Brady, 1465

Applicability to Automobile Sales

Manwaring v. Century Toyota [44,326], 728
Walt Bennett Ford, Inc. v. Keck, 560
Washburn v. Vandiver, 560

UNIFORM COMMERCIAL CODE

Negotiable Instruments

Check Reporting Servs. v. Burton [44,597], 306

Remedies

Erdmann v. Rants [44,788], 733

Repossession

Brooks v. Wachovia Bank & Trust [45,393], 1437

Sales

Brooks v. Wachovia Bank & Trust [45,393], 1437

USURY

Crumley v. Berry, 284
Fidelity Fin. Servs. v. Hicks [44,607], 305
Smith v. Fidelity Consumer Discount [43,229], 728
Tax Refunds, Inc. v. Depp [44,587], 306
Victoria Bank & Trust Co. v. Brady, 1465

Ceilings

Johnson v. Rocky Top Motors [44,368], 59

Refinancing Secondary Mortgage Loans

Bryant v. Goldome Credit [44,765], 592

CONTRACTS

See also CONSUMER

ASSIGNMENT ENFORCEABILITY

Rivas v. Goldome Credit [45,120], 1013

BREACH

Evans v. Travelers Cos. [44,677], 592, 730
Odem, *In re*, 216

CONSIDERATION

Heritage House Partnership v. Frazier [45,080], 1024

COVENANTS

Tolbert v. First Nat'l Bank, 707

QUASI-CONTRACT

Odem, *In re*, 216

RELEASE

Pears v. Spang, 1377

TERMS OF PAYMENT

HCA Health Servs. of Va. v. Peters [44,663], 584

UNCONSCIONABILITY

Griffin v. American Defender Life Ins. [44,823], 1438
Indiana Nat'l Bank v. Giger [45,418], 1551
Jones v. Credithrift of Am. [45,081], 1310

UNJUST ENRICHMENT

Morales v. Pan Am. Life Ins. Co., 1377

CRIMINAL LAW AND PROCEDURE

See also EVIDENCE, PARDON AND PAROLE, PRISONS

ACCESS TO COURTS

Murray v. Giarratano, 567

APPEALS

Indigents

Murray v. Giarratano, 567

CAPACITY TO COMMIT

R., *In re* [44,569], 314

COMPETENT TO STAND TRIAL

Psychiatric Examinations

Mulgrew v. Pennsylvania Dep't of Pub. Welfare, 560

CONVICTIONS

Wiggins v. Maryland [44,574], 307

DEATH PENALTY

Murray v. Giarratano, 567

DOMESTIC VIOLENCE

Arizona v. Spano [44,443], 179
R., *In re* [44,569], 314

DRUG ABUSE

United States v. Certain Leasehold Interests [45,072], 1028

HABEAS CORPUS

Exhaustion of State Judicial Remedies

Hemon v. Office of Pub. Guardian, 994

PROBATION

Conditions of Probation

Camp v. Florida, 83

RIGHT TO COUNSEL

Boyd v. City of Woodville [44,988], 895
Murray v. Giarratano, 567

SEARCH AND SEIZURE

Illinois v. Madison [44,896], 727
Pearl Meadows Mushroom Farm, Inc. v. Nelson, 1470
Ramirez v. Webb [31,766], 904
Summeries v. Chicago Hous. Auth. [45,004], 1027

TRANSCRIPTS

Fullan v. Commissioner of Corrections, 1570

TRIAL

Course and Conduct

Wiggins v. Maryland [44,574], 307

VICTIMS

Assistance to Victims

Blair v. Blair [44,902], 734
Czachorowski v. Degenhart [44,099], 1551

DECEDENTS' ESTATES

Kaschak v. Raritan Valley Collection Agency [44,762], 591

DEPENDENT AND NEGLECTED CHILDREN

ADJUDICATORY HEARING

Due Process

Bixler v. Children & Youth Servs. of Delaware County [42,317], 326
Brewer, *In re* [44,498], 190
Hankins v. Hickman [44,497], 190
Ratliff, *In re* [44,499], 190

Evidentiary Rules

Castellanos v. Department of Health & Rehabilitative Servs., 991

Right to Appointed Counsel

L., T., *In re*, 1380

Vagueness of Grounds

Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336

ADOPTIVE HOMES

B., M. A., Adoption of, *In re* [44,622], 309

CHILD ABUSE-NEGLECT

Castellanos v. Department of Health & Rehabilitative Servs., 991
J., D., *In re*, 1574
M. v. Johnson, 1573

Foster Homes

Babcock v. Tyler, 1380
H. v. Johnson [45,092], 1033

Hearing Procedures

Advisory Opinion HRS Nonlawyer Counselor, *In re* [42,731], 1373
B., *In re* [44,984], 905
H., Jonathan v. Margaret H., 711
Ratliff, *In re* [44,499], 190

Investigations

B., *In re* [44,984], 905
Bates v. Reynolds, 991

Jurisdiction

Juvenile Dep't of Marion County v. Randall, 711
Liedel v. Juvenile Court of Madison County, Ala., 1571

Parents' Liability

Cox v. Court of Common Pleas, 566

Records

> Access

Arizona v. Spano [44,443], 179

Right to Appointed Counsel

L., T., *In re*, 1380

Standards

Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336

CHILD SUPPORT

Brown v. McMahon [43,812], 1350
Classe v. Classe, 987
Moore v. Sharp [44,323], 59

CUSTODY

Sanders v. Shephard [43,579], 733

Child Abuse-Neglect

Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336
Morgan v. Foretich, 1465

Decree Modification

Bates v. Johnson [38,270], 325, 621

Deprived Parents

Busch v. Busch, 1465

Financial Responsibility

DeFehr v. Simmons, 1380
H., J., *In re*, 566

Foster Parents

Zelda, *In re*, 217

Grandparents

Bozarth, Custody of, *In re*, 708
Davis v. Collingsworth [44,912], 733
Dunn v. Dunn, 987
Lewelling v. Lewelling, 988
S., D.L., *In re*, 1375
Stephenson v. Blackburn [44,420], 178
Tuttle, Marriage of, *In re*, 215
W., T.R., *In re*, 561

Handicapped Persons

Hanks, *In re*, 217

> Procedural Requirements

B., T.S., *In re*, 85

Interest of Child

Adoption No. 2428, *In re*, 1572
Copas v. Cabinet for Human Resources [44,382], 67
Duck v. Jenkins, 83
Dunn v. Dunn, 987
H., Jonathan v. Margaret H., 711
Indiana *ex rel.* Vt. Dep't of Social Welfare v. Cargile, 561
Juvenile Dep't of Marion County v. Randall, 711
Lutgen, *In re* [43,553], 83
P. v. Johnson [43,990], 1034
Stephenson v. Blackburn [44,420], 178

Involuntary Removal

Brewer, *In re* [44,498], 190
Fields v. Johnson [44,465], 189
Hankins v. Hickman [44,497], 190
Parker v. Monroe County Dep't of Pub. Welfare [44,424], 190
Ratliff, *In re* [44,499], 190

Jurisdiction

H., J., *In re*, 566
Juvenile Dep't of Marion County v. Randall, 711
Lucas County Dep't of Human Servs. v. Wayne, 284
R., B.B., *In re*, 1571
Tuttle, Marriage of, *In re*, 215

Mental Health of Parents

A., Michael, *In re*, 85
D., T., *In re*, 217
Hanks, *In re*, 217

Minors' Rights

Adoption No. 2428, *In re*, 1572

Parents' Rights

B., *In re* [45,331], 1450
Baltimore City Dep't of Social Servs. v. Bouknight [45,027], 1033
Davis v. Collingsworth [44,912], 733
Fields v. Johnson [44,465], 189

> Notice of Hearing

Bixler v. Children & Youth Servs. of Delaware County [42,317], 326

> Rehabilitative Services

Division of Child Protective Servs. v. Watkins [45,419], 1547

> Right to Counsel

F., D.D., *In re*, 1572

» Appointment of Separate Counsel

L., T., *In re*, 1380

> Right to Hearing

F., D.D., *In re*, 1572

> Visitation Rights

Bates v. Johnson [38,270], 325, 621
Bixler v. Children & Youth Servs. of Delaware County [42,317], 326
Duck v. Jenkins, 83
Witham v. Griner [45,269], 1336

Reunification Services

B., *In re* [45,331], 1450
Brewer, *In re* [44,498], 190
Hankins v. Hickman [44,497], 190
M. v. Magnant [45,225], 1336, 1561
Ratliff, *In re* [44,499], 190

Termination of Parental Rights

B., A., *In re*, 992
H., Jonathan v. Margaret H., 711

> Evidentiary Standard

Dull v. Delaware County Dep't of Pub. Welfare [43,740], 189
F., R.L., *In re*, 567
S., P., *In re*, 287
Stephenson v. Blackburn [44,420], 178

> Failure to Support

Thorne v. Padgett, 1571

> Grounds

A., Michael, *In re*, 85
Copas v. Cabinet for Human Resources [44,382], 67
F., R.L., *In re*, 567
J., D., *In re*, 1574
Parker v. Monroe County Dep't of Pub. Welfare [44,424], 190
Wyoming *ex rel.* L. v. P. [44,548], 308

> Handicapped Parents

» Mental Disabilities

A., Michael, *In re*, 85
D., T., *In re*, 217
Dull v. Delaware County Dep't of Pub. Welfare [43,740], 189
Hanks, *In re*, 217
L., T., *In re*, 1380
S., R.M., *In re*, 1378

» Physical Disabilities

B., T.S., *In re*, 85

> Jurisdiction

Appeal in Maricopa County Juvenile Action No. JS-7359, *In re*, 86
Wyoming *ex rel.* L. v. P. [44,548], 308

> Right to Counsel
F., D.D., *In re*, 1572
> Right to Treatment as Family Unit
Fields v. Johnson [44,465], 189
> Sufficiency of Evidence of Fitness
Copas v. Cabinet for Human Resources [44,382], 67
D., T., *In re*, 217
S., P., *In re*, 287

Transfers

Bixler v. Children & Youth Servs. of Delaware County [42,317], 326

Unwed Fathers

Indiana *ex rel.* Vt. Dep't of Social Welfare v. Cargile, 561

Visitation Rights

Bates v. Johnson [38,270], 325, 621
Bixler v. Children & Youth Servs. of Delaware County [42,317], 326
Hicks v. Enlow, 214
P. v. Johnson [43,990], 1034
Witham v. Griner [45,269], 1336

DEPENDENCY PROCEEDING

Advisory Opinion HRS Nonlawyer Counselor, *In re* [42,731], 1373
Bates v. Reynolds, 991
Castellanos v. Department of Health & Rehabilitative Servs., 991

FOSTER CARE

Addison v. Housing Auth. of Woonsocket [43,721], 320
DeFehr v. Simmons, 1380
Grant v. Cuomo, 217
H. v. Department of Health & Rehabilitative Servs. [44,724], 589
Renfro v. Cuyahoga County Dep't of Human Servs., 1379
Torres v. Lyng [45,029], 1017

Monitoring

M. v. Magnant [45,225], 1336, 1561
> State Agencies
C. v. Hornsby [45,438], 1561
H. v. Johnson [45,092], 1033

Placement

Babcock v. Tyler, 1380
C. v. Hornsby [45,438], 1561
H. v. Johnson [45,092], 1033
H., J.H. v. O'Hara, 991

Visitation Rights

Bates v. Johnson [38,270], 325, 621
Witham v. Griner [45,269], 1336

FOSTER PARENTS

Grant v. Cuomo, 217
Renfro v. Cuyahoga County Dep't of Human Servs., 1379
Zelda, *In re*, 217

Racial Discrimination

H., J.H. v. O'Hara, 991

LEAST RESTRICTIVE ALTERNATIVE

P. v. Johnson [43,990], 1034

PARENTS

Drug Abuse

Cox v. Court of Common Pleas, 566
Juvenile Dep't of Marion County v. Randall, 711
Monaghan v. Crawford, 83
Parker v. Monroe County Dep't of Pub. Welfare [44,424], 190

Rehabilitative Services

M. v. Magnant [45,225], 1336, 1561

Rights

B., *In re* [45,331], 1450
Baltimore City Dep't of Social Servs. v. Bouknight [45,027], 1033
Copas v. Cabinet for Human Resources [44,382], 67
Davis v. Collingsworth [44,912], 733
Henne v. Wright, 711
L., T., *In re*, 1380
> Notice of Hearing
Catholic Social Servs., Inc. v. CAA, 1574
> Right to Copies of Records and Reports
Bixler v. Children & Youth Servs. of Delaware County [42,317], 326

Violation of Civil Rights

Babcock v. Tyler, 1380
Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336
Henne v. Wright, 711

VISITATION RIGHTS

D'Allessandro v. Ely, 83
P. v. Johnson [43,990], 1034

Reduction

Bixler v. Children & Youth Servs. of Delaware County [42,317], 326
Witham v. Griner [45,269], 1336

Termination

Catholic Social Servs., Inc. v. CAA, 1574
Hicks v. Enlow, 214

DIVORCE

See also DOMESTIC RELATIONS

DeLaMatter v. DeLaMatter, 1375
Vassallo v. Vassallo, 562

ALIMONY

Modification

Begay, *In re* [44,614], 310
Cranford v. Cranford, 988
Martin v. Bales [44,572], 310

Nonpayment

Weidner v. Weidner, 215
> Contempt
Waters v. Albanese, 1374

Retirement Benefits

Begay, *In re* [44,614], 310
Cruise v. Cruise, 83
Taylor v. Taylor, 987

Termination

Cranford v. Cranford, 988

APPEALS

Vassallo v. Vassallo, 562

CHILD SUPPORT

Harper, Marriage of, *In re*, 1572
NPA v. WBA, 709
Watters, Marriage of, *In re*, 1464
Williams v. Williams, 1456

Accrued Temporary Support

> AFDC Recipients
Pray v. Iowa Dep't of Human Servs., 222

Age of Minority

Blackman v. Blackman, 562
Nunez v. Nunez, 709
Stevens v. Raymond, 988
Streb v. Streb, 707
University of S. Ala., *Ex parte*, 707

Attorney Fees

Department of Health & Rehabilitative Servs. v. Thompson, 1464

Cost-of-Living Adjustment

Bell v. Rogers, 708
Proctor v. Proctor, 709
Thibadeau v. Thibadeau, 709

Enforcement

Alley v. Bennett, 562
Bennett v. White [27,044], 635, 1351
Blackman v. Blackman, 562
Boykins, *Ex parte*, 215
Brinkley v. Early [45,345], 1352
Brookins v. Brookins, 708
Carelli v. Howser [44,746], 594
Crockett v. Dobbs, 986
Cunningham v. Cunningham, 83
Danforth v. Maine [45,237], 1355
Department of Social Servs. v. Brewer, 1385
Doshier v. Doshier, 708
Ecoff v. Washington State Dep't of Social & Health Servs. [45,047], 1440
Esquivel v. McMahon [44,171], 342
Gibson v. Gibson, 83
Hooks v. Hooks, 83
Jordan v. Middleton, 83
Nunez v. Nunez, 709
Parks v. Romans, 1375
Root v. Root, 987
Upchurch v. Upchurch, 562
Weber v. Albrecht, 285

Inability to Pay

Moore v. Sharp [44,323], 59
Parker v. Parker [45,249], 1315
Peters, *Ex parte*, 709

Liens

Strankowski v. Strankowski, 1466
Weber v. Albrecht, 285
Weidner v. Weidner, 215

Modification

Bell v. Rogers, 708
Borden v. Borden, 1467
Doshier v. Doshier, 708
Ecoff v. Washington State Dep't of Social & Health Servs. [45,047], 1440
Guthmiller v. Guthmiller, 1571
Langlois v. Langlois, 709
Orlowsky v. Orlowsky, 284
Parker v. Parker [45,249], 1315
Shelor v. Shelor, 1385
Thibadeau v. Thibadeau, 709

> Custody Changes

Richards, Marriage of, *In re*, 215

Nonpayment

Carter v. Carter, 1571
Hoffman v. Foley, 708
Weber v. Albrecht, 285

> Contempt

Berry, Marriage of, *In re*, 285
Boykins, *Ex parte*, 215
Peters, *Ex parte*, 709
Stevens v. Raymond, 988

> Imprisonment

Boykins, *Ex parte*, 215
Parker v. Parker [45,249], 1315

Presumption of Legitimacy

L., R.T., *In re*, 1466
T. v. T. [45,248], 1315, 1440

Reduction

McCloud v. McCloud, 708
Orlowsky v. Orlowsky, 284
Richards, Marriage of, *In re*, 215
Williams v. Williams [45,328], 1467

> Welfare Recipients

Parks v. Romans, 1375

Reimbursement to Welfare Agency

Alaska Child Support Enforcement v. Gammons, 707
Danforth v. Maine [45,237], 1355
Pray v. Iowa Dep't of Human Servs., 222

Retirement Benefits

Rudden v. Rudden, 285

Sex Discrimination

Ecoff v. Washington State Dep't of Social & Health Servs. [45,047], 1440

Standing to Sue

Brinkley v. Early [45,345], 1352

Uniform Reciprocal Enforcement of Support Act

Brookins v. Brookins, 708
Edwards v. Lateef, 707
Gibson v. Gibson, 83
Hoffman v. Foley, 708
Howard v. Richardson, 1374
Mathieu v. Commissioner of Human Servs., 987
Nunez v. Nunez, 709
Weidner v. Weidner, 215

COMMUNITY PROPERTY

Pendente Lite Award

Vassallo v. Vassallo, 562
Magness v. Magness, 708

CUSTODY

Bersani v. Bersani, 1464
Iowa Dep't of Human Servs. v. Iowa Dist. Court for Cherokee County, 1466

Change of Custody

Mayfield v. Mayfield, 1467
Monaghan v. Crawford, 83
Pennsylvania *ex rel.* Coburn v. Coburn, 709
Zwernemann v. Kenny, 1375

Child Snatching

Brassell v. Georgia, 1466
Sams v. Boston, 1374
Sanders v. Shephard [43,579], 733
Stevens v. Stevens [44,634], 310

Determination of Custody

Davis v. Collingsworth [44,912], 733
Lewelling v. Lewelling, 988
Magness v. Magness, 708
Maxfield v. Maxfield, 562
Stephenson v. Blackburn [44,420], 178
Tuttle, Marriage of, *In re*, 215
W., T.R., *In re*, 561

Interstate Conflicts

Cox, Custody of, *In re*, 561
Lioe-at-Jam Lee v. Ewing [44,596], 308
Stevens v. Stevens [44,634], 310
Upchurch v. Upchurch, 562
W., T.R., *In re*, 561
Zwernemann v. Kenny, 1375

Uniform Child Custody Jurisdiction Act

> Jurisdiction

Cox, Custody of, *In re*, 561
Lioe-at-Jam Lee v. Ewing [44,596], 308
Sams v. Boston, 1374
Stevens v. Stevens [44,634], 310
W., T.R., *In re*, 561

HEARINGS

Blair v. Blair [44,902], 734
Magness v. Magness, 708
White v. White, 708

JURISDICTION

Babouder v. Abdennur, 1467
Brookins v. Brookins, 708
Gibson v. Gibson, 83
Gregory v. Gregory [45,110], 1009
Ingram v. Hayes, 83
Martin v. Bales [44,572], 310

PATERNITY

Callison v. Naylor, 986
H., Michael v. Gerald D., 561
Pennsylvania *ex rel.* Coburn v. Coburn, 709
Simcox v. Simcox, 1466
T. v. T. [45,248], 1315, 1440

PROPERTY DIVISION

Andresen v. Andresen, 1385
Borman v. Leiker (*In re* Borman), 1373
Carmody v. Secretary of Navy, 1466
Custer v. Custer, 1375
Fenimore, Marriage of, *In re*, 1467
Mansell v. Mansell, 561
Maxfield v. Maxfield, 562
Rudden v. Rudden, 285
Streb v. Streb, 707
Taylor v. Taylor, 987
White v. White, 708

RESIDENCY REQUIREMENTS

Babouder v. Abdennur, 1467

RIGHT TO COUNSEL

Lindon v. Lindon [45,478], 1547

SETTLEMENTS

Streb v. Streb, 707
Taylor v. Taylor, 987
White v. White, 708

SPOUSAL ABUSE

Blair v. Blair [44,902], 734

Legal Options

Smith v. Superior Court of Ariz. [44,715], 594

STAY OF PROCEEDINGS

Shelor v. Shelor, 1385

VISITATION RIGHTS

Contempt

Herrera, Marriage of, *In re*, 561
Mayfield v. Mayfield, 1467
Morgan v. Foretich, 1465
Zebedee, Marriage of, *In re*, 1375

Denial

Williams v. Williams, 1456

Nonparents

Baker v. Perkins, 986
Mills v. Parker, 1374
P., Jennifer, *In re*, 215
Spradling v. Harris, 1375

DOMESTIC RELATIONS

See also ADOPTION, DEPENDENT AND NEGLECTED CHILDREN, DIVORCE, ILLEGITIMATE CHILDREN

CHILD SUPPORT

Borden v. Borden, 1467
Fitzgerald v. Fitzgerald, 1466
Guthmiller v. Guthmiller, 1571

Harper, Marriage of, *In re*, 1572
Illinois *ex rel.* Browning v. Melton, 572
L., R.T., *In re*, 1466
Richards, Marriage of, *In re*, 215
Shuba v. Division of Child Support Enforcement, 1466

Collection

Anderson v. White [44,689], 593, 1314
Authenreith v. Watts, 708
Bennett v. White [27,044], 635, 1351
Blackman v. Blackman, 562
Carelli v. Howser [44,746], 594
Cassell v. Flaherty [45,398], 1439
Classe v. Classe, 987
Crockett v. Dobbs, 986
Cunningham v. Cunningham, 83
Danforth v. Maine [45,237], 1355
Department of Social Servs. v. Brewer, 1385
Doshier v. Doshier, 708
Ecoff v. Washington State Dep't of Social & Health Servs. [45,047], 1440
Edwards v. Lateef, 707
Ellis v. Carlton [44,767], 641
Esquivel v. McMahon [44,171], 342
Florida *ex rel.* Pittman v. Stanjeski, 708
Hooks v. Hooks, 83
Jordan v. Middleton, 83
Missouri v. Thurwalker, 285
Overbey v. McBride [43,483], 594
Parks v. Romans, 1375
Root v. Root, 987
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309
Sheffield v. Coler [44,547], 340, 1047
Watters, Marriage of, *In re*, 1464
Weber v. Albrecht, 285
Williams v. Williams, 1456

Nonpayment

Carter v. Carter, 1571
Florida *ex rel.* Pittman v. Stanjeski, 708
Moore v. Sharp [44,323], 59
Weber v. Albrecht, 285

> Contempt

Berry, Marriage of, *In re*, 285
Boykins, *Ex parte*, 215
Department of Health & Rehabilitative Servs. v. Thompson, 1464
Stevens v. Raymond, 988
Sundholm, Marriage of, *In re*, 1572

> Imprisonment

Boykins, *Ex parte*, 215
Parker v. Parker [45,249], 1315
Proctor v. Proctor, 709

> Right to Counsel

Clark v. Sarver [44,618], 311

> Tax Refund Intercept

Anderson v. White [44,689], 593, 1314
Kandlbinder v. Reagen, 986

Parents' Responsibility

Arizona v. Anonymous, 214
Doshier v. Doshier, 708
Howard v. Richardson, 1374
Montell v. Washington Dep't of Social & Health Servs., 998
NPA v. WBA, 709
Orlowsky v. Orlowsky, 284
Stevens v. Raymond, 988
University of S. Ala., *Ex parte*, 707
Williams v. Williams [45,328], 1467
Wyoming *ex rel.* L. v. P. [44,548], 308

Uniform Reciprocal Enforcement of Support Act

Edwards v. Lateef, 707
Gibson v. Gibson, 83
Howard v. Richardson, 1374
Indiana *ex rel.* Vt. Dep't of Social Welfare v. Cargile, 561
Mathieu v. Commissioner of Human Servs., 987
Vermont Dep't of Social Welfare *ex rel.* Packard v. Cargile, 1466

Voluntary Relinquishment of

Missouri v. Thurwalker, 285
Sundholm, Marriage of, *In re*, 1572

COMMUNITY PROPERTY

Mansell v. Mansell, 561

CUSTODY

Davis v. Collingsworth [44,912], 733
Duck v. Jenkins, 83
Fitzgerald v. Fitzgerald, 1466
Maxfield v. Maxfield, 562
Morgan v. Foretich, 1465
Oregon *ex rel.* Wardell v. Del Langdon [45,166], 1316
S., D.L., *In re*, 1375
Stephenson v. Blackburn [44,420], 178
Valentine v. Wroten [45,433], 1551

Change

Goss v. Goss, 1466
Lewelling v. Lewelling, 988
Lucas County Dep't of Human Servs. v. Wayne, 284
Lutgen, *In re* [43,553], 83
Monaghan v. Crawford, 83
Zwernemann v. Kenny, 1375

Child Snatching

Brassell v. Georgia, 1466
Sams v. Boston, 1374
Sanders v. Shephard [43,579], 733
Stevens v. Stevens [44,634], 310

Jurisdiction

Appeal in Maricopa County Juvenile Action No. JS-7359, *In re*, 86
Bozarth, Custody of, *In re*, 708
Brewer, *In re* [44,498], 190
Carter v. Carter, 1571
Hankins v. Hickman [44,497], 190
Iowa Dep't of Human Servs. v. Iowa Dist. Court for Cherokee County, 1466
Lucas County Dep't of Human Servs. v. Wayne, 284
Mississippi Band of Choctaw Indians v. Holyfield, 218
Ratliff, *In re* [44,499], 190
Stevens v. Stevens [44,634], 310
Thompson v. Sundholm, 1571
Tuttle, Marriage of, *In re*, 215

Uniform Child Custody Jurisdiction Act

Bozarth, Custody of, *In re*, 708
Cox, Custody of, *In re*, 561
Lioe-at-Jam Lee v. Ewing [44,596], 308
Sams v. Boston, 1374
Stevens v. Stevens [44,634], 310
W., T.R., *In re*, 561

DOMESTIC VIOLENCE

Lutgen, *In re* [43,553], 83

Battered Women

R., *In re* [44,569], 314

> Abuse Statutes

Antonellis v. Justices of the Brighton Dist. Court [45,417], 1551
Bates v. Bates [45,397], 1439
Blair v. Blair [44,902], 734
Czachorowski v. Degenhart [44,099], 1551
Smith v. Superior Court of Ariz. [44,715], 594

> Access to Courts

Valentine v. Wroten [45,433], 1551

» Protection Orders

Bates v. Bates [45,397], 1439
Cloutterbuck v. Cloutterbuck, 561
Smith v. Superior Court of Ariz. [44,715], 594

> Legal Options

Smith v. Superior Court of Ariz. [44,715], 594
Valentine v. Wroten [45,433], 1551

> Police

» Duty to Advise of Rights

Czachorowski v. Degenhart [44,099], 1551

> Shelters

Arizona v. Spano [44,443], 179
Blair v. Blair [44,902], 734
Caples v. Yeutter [44,577], 314, 1017
Doe v. City of Butler, Pa. [44,660], 611, 1573
Safehouse of Bullhead City v. Zellner [45,119], 1013, 1316
YMCA of Oak Ridge v. Blair [45,019], 1316

> Welfare

Caples v. Yeutter [44,577], 314, 1017

Child Abuse

Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336

> Sexual Abuse

B., *In re* [44,984], 905

VISITATION RIGHTS

Antonellis v. Justices of the Brighton Dist. Court [45,417], 1551
Duck v. Jenkins, 83
Herrera, Marriage of, *In re*, 561
Mayfield v. Mayfield, 1467
Q., H., *In re*, 1572
Thompson v. Sundholm, 1571
Zebedee, Marriage of, *In re*, 1375

Non-Parents

Baker v. Perkins, 986
D'Allessandro v. Ely, 83
Freel, *In re*, 1466
Hicks v. Enlow, 214
Mills v. Parker, 1374
P., Jennifer, *In re*, 215
Spradling v. Harris, 1375

DRIVER'S LICENSE

See also AUTOMOBILES

FINANCIAL RESPONSIBILITY

Norton v. Tennessee Dep't of Safety (*In re* Norton), 214

Suspension

Motley v. Williams (*In re* Motley) [45,231], 1306

REVOCATION

Colon v. Hart (*In re* Colon) [44,881], 725
Norton v. Tennessee Dep't of Safety (*In re* Norton), 214

SUSPENSION

Scott v. Williams [44,364], 57, 1010

DRUG TESTING

See PRIVACY

DUE PROCESS

Doe v. City of Butler, Pa. [44,660], 611, 1573

ADMINISTRATIVE ACTIONS

Bennett v. Tucker, 1468
Strandell, *In re*, 992

APPEALS

Johnson v. Employment Sec. Comm'n of N.C. [44,768], 633

ASSISTANCE OF COUNSEL

Maine Dep't of Human Servs. v. Tarvers [43,952], 594
Mallard v. United States Dist. Court for the S. Dist. of Iowa [44,625], 300

Administrative Proceedings

Committee on Legal Ethics v. Triplett, 214, 284
Simmons v. Traughber [44,611], 338

BILINGUAL NOTICES

Gonzalez v. Sullivan [42,747], 632

CONTEMPT PROCEEDINGS

Sanders v. Shephard [43,579], 733

COURTS

Competency of Court

Smith v. Justice of the Peace Court No. 1 [45,348], 1451

Reviews

Alabama Medicaid Agency v. Peoples, 1374

CREDITOR'S RIGHTS

Prejudgment Seizure

Games v. Cavazos [44,697], 590

CRUEL AND UNUSUAL PUNISHMENT

Garrett v. City of East Cleveland [44,444], 196
Sample v. Diecks, 1380

DEBTOR'S RIGHTS

Burris v. Mahaney [44,908], 731
Kirby v. Sprouls [44,387], 58, 1012

DEPRIVATION OF LIBERTY

Baptist v. Lane, 568
Cameron v. Metcuz, 219
Edwards v. Johnston County Health Dep't, 1380
H., Michael v. Gerald D., 561
Kentucky Dep't of Corrections v. Thompson, 288
Nelson v. City of Chicago [45,182], 1310
Renfro v. Cuyahoga County Dep't of Human Servs., 1379
Zelda, *In re*, 217

Employment

Moore v. Grammer, 993

Sentences

DiStefano v. Watson, 1472
Sample v. Diecks, 1380
Sanders v. Shephard [43,579], 733

DEPRIVATION OF PROPERTY

Abernathy v. Yeutter [44,695], 600, 1319
Appalachian Research & Defense Fund of Ky. v. Austin [43,940], 1007
Brown v. Ledbetter [41,201], 761, 1438
Duhon v. Arkansas [44,938], 1034
Facio v. Jones, 986
Matheny v. Pratt [44,728], 638
Mazon v. Flagstaff Health Management [44,758], 603
Moore v. Grammer, 993
Ocasio v. City of Lawrence [44,869], 763
Seawall Assocs. v. City of New York, 1379

Assessments for Benefits

Teeter v. Supplemental Pension Plan of Consol. Rail Corp., 289

Just Compensation

Jewell v. Maynard, 1373
Littlewolf v. Lujan, 992
Lomas & Nettleton v. Janes [44,489], 618
Mehta v. Surles, 1469
Thetford Properties IV Ltd. Partnership v. HUD [44,241], 65, 185, 613
Thetford Properties IV Ltd. Partnership v. United States [44,242], 65
Ward v. Harding [45,077], 1016

Social Security Laws

Brinkman v. Rahm [41,131], 995
Ferguson v. Sullivan, 1383
Taylor v. Steinbacher [44,764], 633

INTERPRETERS

Bonner v. Arizona Dep't of Corrections, 993

IRREBUTTABLE PRESUMPTION

Alcott v. Board of Review of Okla. Employment Sec. Comm'n [44,494], 204
H., Michael v. Gerald D., 561

JAILS

Boone v. Elrod, 288
Pella v. Adams, 87

Conditions

Garrett v. City of East Cleveland [44,444], 196
Williams v. McClain, 569

Vacation

Facio v. Jones, 986

JURISDICTION

Breen v. Jarvis, 83
Cochran v. Wallace, 988

NOTICE AND OPPORTUNITY TO BE HEARD

Burlington Hous. Auth. v. Jewer [44,756], 619
H. v. Edwards [43,132], 601
Harrison v. Sobol, 285
Johnson v. Employment Sec. Comm'n of N.C. [44,768], 633
Kentucky Dep't of Corrections v. Thompson, 288
Matheny v. Pratt [44,728], 638
Thorne v. Padgett, 1571

Action Before Hearing

Games v. Cavazos [44,697], 590
Scott v. Williams [44,364], 57, 1010

Administrative Proceedings

Anderson v. White [44,689], 593, 1314
Gilliam v. Housing Auth. of Mt. Sterling [44,434], 184
Hart v. Bowen [44,467], 197
Jones v. Cavazos [45,354], 1433
Milliner v. Pierce [44,425], 183
Sorenson v. Bowen, 571
Waite v. Housing Auth. of City of Newport [44,658], 614
Williams v. Lyng [41,616], 744

Before Adjudication

Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia, 710

Competent and Impartial Tribunal

Smith v. Justice of the Peace Court No. 1 [45,348], 1451

Contempt

Sanders v. Shephard [43,579], 733

Ex Parte Proceedings

Ferguson v. Sullivan, 1383
Magness v. Magness, 708

Hearing on Merits

Scott v. Williams [44,364], 57, 1010

Insufficient Time

Miller v. Bowen [45,358], 1454

Legal Incapacity

Ferguson v. Sullivan, 1383

Opportunity to Rebut Evidence

Kandlbinder v. Reagen, 986
Tolson v. Sheridan School Dist. [45,018], 1014

Order Without Hearing

Letendre v. Housing Auth. of Woonsocket [44,369], 65
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309

Presentation of Claim or Defense

Carter v. Review Bd. of Ind. Dep't of Employment & Training Servs. [44,426], 202

Property Rights

Ocasio v. City of Lawrence [44,869], 763

Sufficiency

Games v. Cavazos [44,697], 590
McAda, *In re*, 1471
Taylor v. Steinbacher [44,764], 633
Weaver v. New York City Employees' Retirement Sys., 1381
Witham v. Griner [45,269], 1336

Venue

Butler v. Turnage, 82
Williams v. Illinois State Scholarship Comm'n [42,518], 303, 1433

PARTIALITY OR BIAS

Tolson v. Sheridan School Dist. [45,018], 1014

REMEDIES

Access to Courts

Carter v. Carter, 1571

REPRESENTATION BY COUNSEL

Committee On Legal Ethics v. Triplett, 214, 284

Appointment by Court

Clark v. Sarver [44,618], 311
Jewell v. Maynard, 1373
Lindon v. Lindon [45,478], 1547
Maine Dep't of Human Servs. v. Tarvers [43,952], 594
Mallard v. United States Dist. Court for the S. Dist. of Iowa [44,625], 300
Office of Pub. Aid v. Superior Court, 1471
Sanders v. Shephard [43,579], 733

Prejudice Caused by Nonrepresentation

Cloutterbuck v. Cloutterbuck, 561

STANDARDS

Notice

Burris v. Mahaney [44,908], 731
Christopher v. Secretary of HHS, 88

TRANSCRIPTS

Indigents

Fullan v. Commissioner of Corrections, 1570

EDUCATION

ADMISSION

Residency Requirements

Harrison v. Sobol, 285

ALTERNATIVE EDUCATION

Gillette v. Fairland Bd. of Educ., 1572

BILINGUAL-BICULTURAL EDUCATION

P. v. Berkeley Unified School Dist., 1467

CORPORAL PUNISHMENT

Due Process

Brown v. Johnson, 709

DESEGREGATION REQUIREMENTS

Brown v. Board of Educ. of Topeka, 1572
Little Rock School Dist. v. Pulaski County Special School Dist., 1374

DISCIPLINE

Heimberger v. School Dist. of City of Saginaw [43,026], 988
Rothschild v. Grottenthaler, 1378, 1573

Due Process

Brown v. Johnson, 709

Suspension

Hayes v. Unified School Dist. No. 377, 988

> Due Process

W., Christopher v. Portsmouth School Comm., 989

DISCRIMINATION

Handicapped Persons

Board of Educ. v. Human Rights Comm'n, 1469
Burr v. Sobol [45,322], 1469
Doe v. Sanders, 1376
Doherty v. Southern College of Optometry, 84
Gillette v. Fairland Bd. of Educ., 1572
Hendricks v. Gilhool [44,468], 180
Rothschild v. Grottenthaler, 1378, 1573
S. v. Georgia Bd. of Educ. [45,152], 1320
W. v. Rochester, N.H., School Dist. [44,667], 602

Race

Committee of Organized Groups v. Orange County School Dist. [45,484], 1552
Lanzarotta v. Trend Colleges [44,564], 311
Women's Equity Action League v. Cavazos, 986

Spanish-Speaking

P. v. Berkeley Unified School Dist., 1467

EDUCATIONAL RIGHTS

Gillette v. Fairland Bd. of Educ., 1572

EMOTIONALLY DISTURBED CHILDREN

School Costs

Metropolitan Gov't v. Tennessee Dep't of Educ., 990

Special Plans Required

Dickson, *In re* [44,963], 896

FEES

Exemption for Indigent Students

Lorenc v. Call [45,367], 1441

FINANCING

Children Residing at St. Aloysius Home, *In re* [44,866], 738

Public Schools

Edgewood Indep. School Dist. v. Kirby [42,763], 1375

Student Loans

Figueroa v. Market Training Inst. [43,212], 311
Graham v. Security Sav. & Loan [43,466], 734
Schaerrer v. Westman Comm'n Co. [40,846], 59

> Recovery

Games v. Cavazos [44,697], 590
Games v. United Student Aid Funds [44,696], 590
Toney v. Burris [40,994], 988
Williams v. Illinois State Scholarship Comm'n [42,518], 303, 1433

» Statute of Limitations

Grider v. Cavazos [45,214], 1312

Jones v. Bennett [44,324], 58
Jones v. Cavazos [45,354], 1433

HOME PROGRAMS

DeVries v. Fairfax County School Bd. [43,722], 1377

INDIGENT STUDENTS

Crane v. Kemp [44,576], 320
Harrison v. Sobol, 285

Waiver of Fees

Lorenc v. Call [45,367], 1441

LEARNING DISABLED CHILDREN

Special Programs

Children Residing at St. Aloysius Home, *In re* [44,866], 738
Gillette v. Fairland Bd. of Educ., 1572

PRIVATE SCHOOLS

Reimbursement

Briggs v. Board of Educ., 564
Carrington v. Commissioner of Educ., 286
Gillette v. Fairland Bd. of Educ., 1572
Thornock v. Boise Indep. School Dist. 1, 216

RELIGIOUS INSTRUCTION

Witters v. State Comm'n for the Blind, 560

RESIDENCY REQUIREMENTS

Doe v. Sanders, 1376
Harrison v. Sobol, 285

SCHOLARSHIPS

Kruckeberg v. Dubois [44,296], 71

SCHOOL BOARD ELECTIONS

Valenzuela v. Coalinga-Huron Unified School Dist. [44,757], 596, 896

SEARCH AND SEIZURE

Drugs

Kross v. Tippecanoe County School Corp., 84

SPECIAL EDUCATION

Children Residing at St. Aloysius Home, *In re* [44,866], 738

TITLE VI

Brown v. Board of Educ. of Topeka, 1572

TRANSPORTATION

Dickson, *In re* [44,963], 896
Macomb County Intermediate School Dist. v. Joshua S., 1377

TUITION

Grants

Abraham v. Marist College, 285

Handicapped Persons

Doe v. Sanders, 1376
Doe v. Smith, 989
Gillette v. Fairland Bd. of Educ., 1572
Thornock v. Boise Indep. School Dist. 1, 216
Witters v. State Comm'n for the Blind, 560

Residency Requirements

Doe v. Sanders, 1376

VOCATIONAL EDUCATION

Figueroa v. Market Training Inst. [43,212], 311

Discrimination

Lanzarotta v. Trend Colleges [44,564], 311

Financing

Gonzalez v. North Am. College of La., Inc. [42,977], 83
Graham v. Security Sav. & Loan [43,466], 734
Pacheo v. VA [44,688], 635

Training Opportunities

Lanzarotta v. Trend Colleges [44,564], 311

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ELECTIONS

ALDERMANIC ELECTIONS

Monroe v. City of Woodville, Miss. [41,631], 988

AT-LARGE ELECTIONS

Monroe v. City of Woodville, Miss. [41,631], 988

Discrimination

Valenzuela v. Coalinga-Huron Unified School Dist. [44,757], 596, 896

DISCRIMINATION

Monroe v. City of Woodville, Miss. [41,631], 988
Valenzuela v. Coalinga-Huron Unified School Dist. [44,757], 596, 896

VOTING RIGHTS ACT

Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

Section 2 on At-Large Elections

Monroe v. City of Woodville, Miss. [41,631], 988
Valenzuela v. Coalinga-Huron Unified School Dist. [44,757], 596, 896

EMPLOYMENT

See also EMPLOYMENT DISCRIMINATION

Davis v. G&S Assocs. [45,443], 1554
Hamro v. Contreras [45,173], 1318
Henning v. Industrial Welfare Comm'n, 84
Transport Workers' Union v. Southeastern Pa. Transp. Auth., 1376

CIVIL SERVICE

Federal Labor Relations Auth. v. Department of Treasury, 1376

Hiring Practices

American Postal Workers Union v. Frank, 1573

COLLECTIVE BARGAINING AGREEMENTS

Violations

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

FAIR LABOR STANDARDS ACT

Dole v. Snell, 709
Gonzalez v. Puente, 218
Mills v. Howe [44,598], 304
Reed v. Nova Enters. [44,769], 597

Minimum Wages

McBride v. Blue Velvet Transp. [45,286], 1317

> Overtime

Cave v. Pro-Tem [45,262], 1318
Thomas v. Department of Employment & Training Serv., 1384

GOVERNMENT EMPLOYEES

American Fed'n of Gov't Employees v. Cavazos, 1468
Bangert v. Hodel, 285
Federal Labor Relations Auth. v. Department of Treasury, 1376
National Treasury Employees Union v. Von Raab, 215
National Treasury Employees Union v. Lyng, 285
Skinner v. Railway Labor Executives Ass'n; National Treasury Employees Union v. Von Raab, 215
Taylor v. O'Grady [45,202], 1317

HIRING PRACTICES

American Postal Workers Union v. Frank, 1573

JOB TRAINING PARTNERSHIP ACT

City of Los Angeles v. McLaughlin, 84

Administration

Mayor's Office of Employment & Training, *In re* [44,354], 59

OCCUPATIONAL SAFETY

Dimeo v. Griffin [45,028], 1015
National Treasury Employees Union v. Von Raab, 215
Skinner v. Railway Labor Executives Ass'n; National Treasury Employees Union v. Von Raab, 215
Tonelli v. Director, Office of Workers' Compensation Programs, DOL, 990

PLANT CLOSINGS

International Union, UAW v. Dole [44,447], 201, 758, 1346
Reeser v. Esmark, Inc., Pension Bd., 988

RECORDS

Dole v. Snell, 709
EEOC v. Switching Sys. Div., Rockwell Int'l [44,747], 596

Access

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

Disclosure

Federal Labor Relations Auth. v. Department of Treasury, 1376
Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

TERMINATION

Kut-Kwick Corp. v. Johnson, 216
Massachusetts v. Morash, 215

At-Will Terminations

Estrada v. Donnelly Corp., 563
Helmick v. Cincinnati Word Processing [44,226], 896

> Limitations

Burk v. K-Mart Corp., 285
Fowler v. K Mart Corp. [44,662], 597
Paul v. Lankenau Hosp. [44,616], 312, 1552

Due Process

Clapper v. Budget Oil Co., 563
Tolson v. Sheridan School Dist. [45,018], 1014

Retaliatory Discharge

Department of Corrections v. Human Rights Comm'n, 216
Echard v. Devine [45,347], 1441
Gonzalez v. Illinois Human Rights Comm'n, 216
Milord v. Caulkins Indiantown Citrus Co. [44,914], 735

Wage Claims

McBride v. Blue Velvet Transp. [45,286], 1317
Reed v. Nova Enters. [44,769], 597

Wrongful Discharge

Clapper v. Budget Oil Co., 563
Helmick v. Cincinnati Word Processing [44,226], 896
Johnson v. Carpenter Technology Corp., 1468
Paul v. Lankenau Hosp. [44,616], 312, 1552
Tolson v. Sheridan School Dist. [45,018], 1014

EMPLOYMENT DISCRIMINATION

ADVERSE IMPACT

Grooming Code

Civil Serv. Comm'n v. Human Relations Comm'n, 563

Health

Civil Serv. Comm'n v. Human Relations Comm'n, 563

Hiring Practices

Colorado Civil Rights Comm'n v. North Washington Fire Protection Dist., 563

Layoffs

Squire v. General Motors Corp., 285

AGE DISCRIMINATION

Action Alliance of Senior Citizens of Greater Philadelphia v. Bowen [34,403], 173
Fisher v. Quaker Oats Co., 710
Heideman v. PFL, Inc., 709
Squire v. General Motors Corp., 285

AGE DISCRIMINATION IN EMPLOYMENT ACT

DiAngelo v. Illinois Dep't of Pub. Aid, 1570

Dismissal of Employees

Heideman v. PFL, Inc., 709

Enforcement

Echard v. Devine [45,347], 1441

> Statute of Limitations

Fisher v. Quaker Oats Co., 710
Heideman v. PFL, Inc., 709

Lawful Practices or Exemptions

> Reasonable Factors Other Than Age

Laurence v. Chevron, U.S.A., Inc., 1376
Public Employees Retirement Sys. of Ohio v. Betts, 563

Layoffs

Pears v. Spang, 1377

Persons Covered

Pears v. Spang, 1377

Timely Filing

Donahue v. Pendleton Woolen Mills, Inc., 1377

Willful Discrimination

Laurence v. Chevron, U.S.A., Inc., 1376
Pears v. Spang, 1377

ALIENS

EEOC v. Switching Sys. Div., Rockwell Int'l [44,747], 596

BACK PAY

Civil Serv. Comm'n v. Human Relations Comm'n, 563
Maturo v. National Graphics, Inc., 1468
Padilla v. United Air Lines, 1376

BONA FIDE OCCUPATIONAL QUALIFICATIONS

Sex Discrimination

International Union, UAW v. Johnson Controls, Inc., 1467
St. John's Home for Children v. Human Rights Comm'n, 84

BURDEN OF PROOF

Patterson v. McLean Credit Union, 562
Wards Cove Packing Co. v. Atonio, 562

BUSINESS NECESSITY

Wards Cove Packing Co. v. Atonio, 562

DISABLED PERSONS

Casteel v. Consolidation Coal Co., 990
Chapoton v. Majestic Caterers, Inc. [44,286], 598
Civil Serv. Comm'n v. Human Relations Comm'n, 563
Plourde v. Scott Paper Co., 216

DISCHARGE

Hall v. Cook County, Ill., 1376

Retaliation for Filing Charge with EEOC

Dunning v. National Indus., Inc., 1468
Perkins v. Walters [43,840], 312
Sherman v. Burke Contracting, Inc., 1572

DISPARATE TREATMENT

Scherr v. Woodland School Community Consol. Dist. No. 50, 216

Demotions

Moore v. Mississippi Valley State Univ., 563

Discharge

Birdwhistle v. Kansas Power & Light Co., 1468

Dismissal

EEOC v. Switching Sys. Div., Rockwell Int'l [44,747], 596

Hiring Practices

Moore v. Mississippi Valley State Univ., 563
Wards Cove Packing Co. v. Atonio, 562

Layoffs

Squire v. General Motors Corp., 285

Promotions

EEOC v. General Tel. Co. [27,713], 1376
Wards Cove Packing Co. v. Atonio, 562

EEOC

Confidentiality of EEOC Files

American Centennial Ins. Co. v. U.S. Equal Employment Opportunity Comm'n, 1468

Notice of Right to Sue

Griffin v. Prince William Hosp. Corp., 1377
Puckett v. Tennessee Eastman Co., 1467

Timely Filing

EEOC v. General Tel. Co. [27,713], 1376
George v. City of St. Louis, 1377
Gonzalez v. Illinois Human Rights Comm'n, 216

FAILURE TO PROMOTE

Moore v. Mississippi Valley State Univ., 563
Patterson v. McLean Credit Union, 562

Statistical Proof

> *Discrimination*

»*Sex*

EEOC v. General Tel. Co. [27,713], 1376

GOOD FAITH DEFENSES

Indiana Civil Rights Comm'n v. Southern Ind. Gas & Elec., 1378

HANDICAPPED PERSONS

Casteel v. Consolidation Coal Co., 990
Chapoton v. Majestic Caterers, Inc. [44,286], 598
Colorado Civil Rights Comm'n v. North Washington Fire Protection Dist., 563
Davidson v. Shoney's Big Boy Restaurant, 710
Doe v. County of Cook [45,246], 1317
Indiana Civil Rights Comm'n v. Southern Ind. Gas & Elec., 1378
Kut-Kwick Corp. v. Johnson, 216
Leake v. Long Island Jewish Medical Center, 286
McMullen v. Labor & Indus. Rev. Comm'n, 85
Means v. Jowa Sec. Servs., 709
Melvin v. Kim's Restaurant, Inc., 989
Plourde v. Scott Paper Co., 216
Smolarek v. Chrysler Corp., 988
Wilks v. Taylor School Dist., 216

HIRING AND PROMOTION

Racial Discrimination

Patterson v. McLean Credit Union, 562
Wards Cove Packing Co. v. Atonio, 562
Williams v. Hevi-Duty Elec. Co. [41,107], 174

Sex Discrimination

EEOC v. General Tel. Co. [27,713], 1376
Minnesota Dep't. of Human Rights v. Mower County Social Servs., 84
St. John's Home for Children v. Human Rights Comm'n, 84

PRIMA FACIE SHOWING

EEOC v. Metal Serv. Co., 1572
Wards Cove Packing Co. v. Atonio, 562

RACIAL

Birdwhistle v. Kansas Power & Light Co., 1468
Carroll v. General Accident Ins. Co. of Am., 1572
Dunning v. National Indus., Inc., 1468
EEOC v. Metal Serv. Co., 1572
George v. City of St. Louis, 1377
Griffin v. Prince William Hosp. Corp., 1377
Hall v. Cook County, Ill., 1376
Mathis v. Boeing Military Airplane Co., 1376
Padilla v. United Air Lines, 1376
Patterson v. McLean Credit Union, 562
Perkins v. Walters [43,840], 312
Sherman v. Burke Contracting, Inc., 1572
Wards Cove Packing Co. v. Atonio, 562
Williams v. Hevi-Duty Elec. Co. [41,107], 174

REFUSAL TO HIRE

EEOC v. Metal Serv. Co., 1572
Erebia v. Chrysler Plastic Prods. Corp., 1570

Handicapped

Colorado Civil Rights Comm'n v. North Washington Fire Protection Dist., 563
Means v. Jowa Sec. Servs., 709
Plourde v. Scott Paper Co., 216
Wilks v. Taylor School Dist., 216

Sex Discrimination

Minnesota Dep't. of Human Rights v. Mower County Social Servs., 84

REMEDIES

Bennett v. Tucker, 1468

Attorney Fees

Carroll v. General Accident Ins. Co. of Am., 1572
Denny v. Westfield State College, 985
Perkins v. Walters [43,840], 312

Back Pay

Carroll v. General Accident Ins. Co. of Am., 1572
Civil Serv. Comm'n v. Human Relations Comm'n, 563
Department of Corrections v. Human Rights Comm'n, 216
Herrin v. Newton Cent. Appraisal Dist., 285
Maturo v. National Graphics, Inc., 1468
Padilla v. United Air Lines, 1376
Perkins v. Walters [43,840], 312

Costs

Perkins v. Walters [43,840], 312

Reinstatement

Herrin v. Newton Cent. Appraisal Dist., 285
Perkins v. Walters [43,840], 312

RETALIATION

Dunning v. National Indus., Inc., 1468
George v. City of St. Louis, 1377
Gonzalez v. Illinois Human Rights Comm'n, 216
Moore v. Mississippi Valley State Univ., 563
Perkins v. Walters [43,840], 312
Sherman v. Burke Contracting, Inc., 1572
Smolarek v. Chrysler Corp., 988
Williams v. Hevi-Duty Elec. Co. [41,107], 174

SEX DISCRIMINATION

Hamilton v. School Comm. of Boston, 1573

Compensation and Classification

Milord v. Caulkins Indiantown Citrus Co. [44,914], 735

Harassment

Department of Corrections v. Human Rights Comm'n, 216
Ebert v. Lamar Truck Plaza, 1376
Helmick v. Cincinnati Word Processing [44,226], 896
Mathis v. Boeing Military Airplane Co., 1376
Maturo v. National Graphics, Inc., 1468
Milord v. Caulkins Indiantown Citrus Co. [44,914], 735
Perkins v. General Motors Corp., 709
Puckett v. Tennessee Eastman Co., 1467
Tedesco Mfg. Co., Inc. v. Unemployment Compensation Bd. of Review, 89

Marriage

Minnesota Dep't. of Human Rights v. Mower County Social Servs., 84

Physical Requirements

St. John's Home for Children v. Human Rights Comm'n, 84

Pregnancy

Dunning v. National Indus., Inc., 1468
Estrada v. Donnelly Corp., 563
Herrin v. Newton Cent. Appraisal Dist., 285
International Union, UAW v. Johnson Controls, Inc., 1467
Melvin v. Kim's Restaurant, Inc., 989
Minnesota Dep't. of Human Rights v. Mower County Social Servs., 84
Scherr v. Woodland School Community Consol. Dist. No. 50, 216

Sexual Favors

Perkins v. General Motors Corp., 709

Single Parents

Minnesota Dep't. of Human Rights v. Mower County Social Servs., 84

Timely Filing of Charge

EEOC v. General Tel. Co. [27,713], 1376

Wage Rights

Ebert v. Lamar Truck Plaza, 1376

STATISTICAL EVIDENCE

Wards Cove Packing Co. v. Atonio, 562

STATUTE OF LIMITATIONS

Puckett v. Tennessee Eastman Co., 1467

Section 1981

Griffin v. Prince William Hosp. Corp., 1377

TITLE VII

Carroll v. General Accident Ins. Co. of Am., 1572
Ebert v. Lamar Truck Plaza, 1376
Estrada v. Donnelly Corp., 563
International Union, UAW v. Johnson Controls, Inc., 1467
Mathis v. Boeing Military Airplane Co., 1376
Maturo v. National Graphics, Inc., 1468
Milord v. Caulkins Indiantown Citrus Co. [44,914], 735
Puckett v. Tennessee Eastman Co., 1467
Trout v. Garrett, 1570

Jurisdictional Requirements

Hamilton v. School Comm. of Boston, 1573

Prima Facie Showing

Birdwhistle v. Kansas Power & Light Co., 1468
Patterson v. McLean Credit Union, 562
Wards Cove Packing Co. v. Atonio, 562

ENERGY

See also PUBLIC UTILITIES

Lezberg v. Rogers [44,922], 749

EMERGENCY FUEL ASSISTANCE

Fuel Crisis Intervention Program

1989-90 Energy Assistance Program, *In re* [45,392], 1453

LOW-INCOME HOME ENERGY ASSISTANCE ACT

Mitchell v. Perales [44,363], 72

Administration

1989-90 Energy Assistance Program, *In re* [45,392], 1453
Rand, *In re* [44,740], 626
Rodriguez v. Cuomo [44,539], 330

Regulation

Rodriguez v. Cuomo [44,539], 330

SUPPLEMENTAL ENERGY ALLOWANCE

Giles v. Housing Auth. of Frankfort [45,074], 1556

WEATHERIZATION

Giles v. Housing Auth. of Frankfort [45,074], 1556

ENVIRONMENTAL LAW

Bobby v. Alaska, 1377

HAZARDOUS WASTE

Pennsylvania v. Union Gas Co., 564

IMPACT STATEMENTS

Adequacy

Tribal Village of Akutan v. Hodel, 286

NATIONAL ENVIRONMENTAL POLICY ACT

Tribal Village of Akutan v. Hodel, 286

SOLID WASTE DISPOSAL

Blue Legs v. EPA [43,115], 195
Illinois v. City of East St. Louis [44,585], 313

STRIP MINING

Phillips v. Neace [44,549], 312
Ward v. Harding [45,077], 1016

SUPERFUND

Pennsylvania v. Union Gas Co., 564

WATER POLLUTION

Illinois v. City of East St. Louis [44,585], 313

EQUAL PROTECTION

See also CIVIL RIGHTS

ALIENS

Azizi v. Thornburgh, 1379
Immigration Assistance Project v. INS, 566, 1379
Vallina v. Meese, 219

APPELLATE JURISDICTION AND PROCEDURE

Appeals

> Bonds

Brassard v. Kuzmik [44,703], 622

FUNDAMENTAL RIGHTS

Card v. Dugger, 568
Carver v. Secretary of HHS [44,543], 331
H., Michael v. Gerald D., 561
Langone v. Coughlin, 993

Freedom of Association

Matheny v. Pratt [44,728], 638
Nelson v. City of Chicago [45,182], 1310

Right of Interstate Travel

Eddleman v. Center Township of Marion County, 1476

Right of Privacy

Illinois v. Madison [44,896], 727
National Treasury Employees Union v. Von Raab, 215
Skinner v. Railway Labor Executives Ass'n; National Treasury Employees Union v. Von Raab, 215

Vital Benefits

Graham v. Bowen, 290
Hilton v. City of New Haven [44,705], 617, 746, 1449

> Eligibility

Gagnon v. Atkins [43,814], 736
Lindley v. Sullivan, 1473
Turpin v. Sullivan [44,994], 909

»Welfare

Jones v. Thompson [44,967], 914

RACIAL DISCRIMINATION

H., J.H. v. O'Hara, 991

TRADITIONAL STANDARDS

Reasonableness

Gerhardt v. Estate of Moore, 987
Pacheo v. VA [44,688], 635
Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia, 710

VENUE

Waiver

Williams v. Illinois State Scholarship Comm'n [42,518], 303, 1433

EVIDENCE

See also CIVIL PROCEDURE, CRIMINAL LAW AND PROCEDURE

ADMINISTRATIVE ADJUDICATIONS

Burden of Proof

Johnson, *In re* [44,918], 757

Hearsay Evidence

Industrial Claims Appeals Office v. Flower Stop Mktg. Corp., 1474

ADMISSIBILITY

Expert Testimony

Louisiana *ex rel.* Braden v. Nash, 1467

Hearsay Evidence

Eastman v. Department of Pub. Aid, 214

BLOOD TESTS

Paternity

Illinois *ex rel.* Kelly v. Pasko, 987
Louisiana *ex rel.* Braden v. Nash, 1467
T. v. T. [45,248], 1315, 1440

BURDEN OF PROOF

Measure of Persuasion

> Clear and Convincing

Davis v. Collingsworth [44,912], 733
Johnson, *In re* [44,918], 757

COURTS

Applicability of Rules to Proceedings

Goodwin v. District Court [45,126], 1010

Proceedings

> Rules

Goodwin v. District Court [45,126], 1010

CROSS-EXAMINATION

Denial

Castellanos v. Department of Health & Rehabilitative Servs., 991

EXPERT WITNESSES

Hypothetical Questions

> Requirements

Walker v. Bowen, 714, 1473

HEARSAY

Philadelphia Elec. Co. v. Pennsylvania Unemployment Compensation Bd. of Review, 1475

Administrative Proceedings

Harshaw v. Grace Convalescent Center [44,593], 339
Industrial Claims Appeals Office v. Flower Stop Mktg. Corp., 1474

Exceptions

B., *In re* [44,984], 905
Eastman v. Department of Pub. Aid, 214

IMPROPERLY OBTAINED EVIDENCE

Unreasonable Search and Seizure

> Persons

American Fed'n of Gov't Employees v. Cavazos, 1468
American Postal Workers Union v. Frank, 1573
Dimeo v. Griffin [45,028], 1015
Kross v. Tippecanoe County School Corp., 84
Transport Workers' Union v. Southeastern Pa. Transp. Auth., 1376

JUDICIAL NOTICE

A., Michael, *In re*, 85

PRIVILEGES

Attorney-Client Privilege

> Confidentiality

Bersani v. Bersani, 1464

> Exceptions

»Furtherance of Crime or Fraud

Bersani v. Bersani, 1464

RECORDS AND RECORDING

Eastman v. Department of Pub. Aid, 214

WITNESSES

Competency

> Children

Ratliff, *In re* [44,499], 190

FOOD PROGRAMS

EMERGENCY FOOD SERVICES

Bedford v. Sugarman [42,960], 565

FOOD SECURITY ACT OF 1985

Huberman v. Perales [42,241], 1016
Lynch v. Lyng [43,756], 302

FOOD STAMP PROGRAM

Administration

Grayson v. Coler [44,446], 180
Lynch v. Lyng [43,756], 302
Mercer v. Yeutter [44,890], 736, 897
Peppers v. Barry [43,861], 572, 726
Quinones v. Suter [42,552], 736

> Administrative Error

Keith v. Pennsylvania Dep't of Pub. Welfare, 84
Labbie v. Robinson, 710
M., *In re* [45,164], 1319
P., *In re* [44,998], 898
Condosta v. Department of Social Welfare, 564

Applications

Love v. Coler [44,905], 735
Maine AFDC Advisory Council v. Lyng [44,738], 599

> Prompt Processing

Grayson v. Coler [44,446], 180
See Moua v. Goodrich [45,219], 1352

Assets

Montoya v. New Mexico Human Servs. Dep't [44,781], 601

> Joint Savings Account

Hollinrake v. Iowa Dep't of Human Servs., 989

Benefits

> Considered Income

Abernathy v. Yeutter [44,695], 600, 1319
Boggs v. Yeutter [44,960], 897
Caples v. Yeutter [44,577], 314, 1017
Cotton v. Babcock [37,134], 598
Garrett v. Lyng [23,198], 989
West v. Bowen [44,143], 1016

Coupon Allotment

Huberman v. Perales [42,241], 1016

Eligibility

Maine AFDC Advisory Council v. Lyng [44,738], 599
S., C., *In re* [44,961], 1328

> Review of

Sapien, *In re* [44,717], 601

Expedited Issuance

Hernandez v. Palmer [45,260], 1319

Fair Hearing

> Appeal Rights

M., *In re* [45,164], 1319

> Decisions

Hardges v. Director, Mich. Dep't of Social Servs. [44,789], 737

» Implementation

Gaskin v. Coler [44,713], 599
Sapien, *In re* [44,717], 601

» Time Limitations

Gaskin v. Coler [44,713], 599
Sapien, *In re* [44,717], 601

Food Stamp Reform Regulations

Lynch v. Lyng [43,756], 302
Verna v. Coler, 710

Fraud

R., *In re* [44,569], 314

Hearings

Peppers v. Barry [43,861], 572, 726

> Eligibility

Condosta v. Department of Social Welfare, 564
Gaskin v. Coler [44,713], 599

Household Definition

Gagnon v. Atkins [43,814], 736
P., *In re* [44,998], 898
Robinson v. Block [37,244], 60
Torres v. Lyng [45,029], 1017

Immediate Issuance

Gaskin v. Coler [44,713], 599

Income Deductions

C., *In re* [45,387], 1442

> Available Income

Boggs v. Yeutter [44,960], 897
Caples v. Yeutter [44,577], 314, 1017
Grace, *In re* [45,177], 1320
S., C., *In re* [44,961], 1328

> Computation of Income

B., *In re* [45,001], 915
Garrett v. Lyng [23,198], 989
Jones v. Yeutter [44,523], 313
Litzinger v. Indiana Dep't of Pub. Welfare [44,470], 180
S., C., *In re* [44,961], 1328

> Educational Allowance

Grace, *In re* [45,177], 1320

> Work Relief

Garrett v. Lyng [23,198], 989

Interpreter Services

Love v. Coler [44,905], 735
Quinones v. Suter [42,552], 736

Lost or Stolen Food Stamps

> Replacement

Skipper v. Suter [37,338], 1441

Monthly Reporting

Pinkney v. Johnston [45,426], 1553
Stephens, *In re* [44,892], 737

Notices

Love v. Coler [44,905], 735
Ortiz v. Eichler [35,980], 1350

> Eligibility

Condosta v. Department of Social Welfare, 564
Hernandez v. Palmer [45,260], 1319

> Hearings

Hardges v. Director, Mich. Dep't of Social Servs. [44,789], 737

> Regulations

Sapien, *In re* [44,717], 601

Overpayments

Abernathy v. Yeutter [44,695], 600, 1319
Eastman v. Department of Pub. Aid, 214
Keith v. Pennsylvania Dep't of Pub. Welfare, 84
Labbie v. Robinson, 710
M., *In re* [45,164], 1319
Mercer v. Yeutter [44,890], 736, 897
P., *In re* [44,998], 898

Prompt Processing

Gaskin v. Coler [44,713], 599
Grayson v. Coler [44,446], 180

Recertification

Grayson v. Coler [44,446], 180

Records

> Access

Stephens, *In re* [44,892], 737

Recoupment

Abernathy v. Yeutter [44,695], 600, 1319
Keith v. Pennsylvania Dep't of Pub. Welfare, 84
Labbie v. Robinson, 710
M., *In re* [45,164], 1319
Mercer v. Yeutter [44,890], 736, 897

Reduction of Benefits

C., *In re* [45,387], 1442
Dubuque v. Yeutter [44,733], 600, 1017

> Increased Income

Caples v. Yeutter [44,577], 314, 1017
Jones v. Yeutter [44,523], 313
Litzinger v. Indiana Dep't of Pub. Welfare [44,470], 180

> Notices

Mercer v. Yeutter [44,890], 736, 897
Weyburn v. Florida Dep't of Health & Rehabilitative Servs., 90

Regulations

Maine AFDC Advisory Council v. Lyng [44,738], 599

> Compliance

Quinones v. Suter [42,552], 736
Stephens, *In re* [44,892], 737

> Implementation

Garrett v. Lyng [23,198], 989
Huberman v. Perales [42,241], 1016
Quinones v. Suter [42,552], 736

> Promulgation

Jones v. Yeutter [44,523], 313
Lynch v. Lyng [43,756], 302

Residency Requirements

Stephens, *In re* [44,892], 737

Retroactive Benefits

Cotton v. Babcock [37,134], 598
Dubuque v. Yeutter [44,733], 600, 1017
Mercer v. Yeutter [44,890], 736, 897
Pinkney v. Johnston [45,426], 1553
West v. Bowen [44,143], 1016

Senior Citizens

Gagnon v. Atkins [43,814], 736

SSI-SSA Recipient Eligibility

Maine AFDC Advisory Council v. Lyng [44,738], 599
West v. Bowen [44,143], 1016

Termination

Montoya v. New Mexico Human Servs. Dep't [44,781], 601

> Hearings

Hardges v. Director, Mich. Dep't of Social Servs. [44,789], 737

> Notice

Hardges v. Director, Mich. Dep't of Social Servs. [44,789], 737
Verna v. Coler, 710

Verification of Information

Johnson v. Babcock [44,712], 763
Love v. Coler [44,905], 735
Pinkney v. Johnston [45,426], 1553
Robinson v. Block [37,244], 60
Robinson v. Grinker [42,952], 208
Stephens, *In re* [44,892], 737

Work Requirements

Autman, *In re* [44,487], 210
Dubuque v. Yeutter [44,733], 600, 1017
Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [45,163], 1307
Verna v. Coler, 710

SCHOOL BREAKFAST AND LUNCH PROGRAM

Heimberger v. School Dist. of City of Saginaw [43,026], 988

FREEDOM OF INFORMATION

Aronson v. HUD, 81

DENIAL

American Centennial Ins. Co. v. U.S. Equal Employment Opportunity Comm'n, 1468
Archer v. Cirrincione, 1468
Prisoners' Legal Serv. of N.Y. v. N.Y. State Dep't of Correctional Servs., 285

Confidential Information

Consumer Educ. & Protection Ass'n v. SEPTA, 564

STATE ACTS

Records

> Access

Alexander v. Division of Community Servs., 564
Consumer Educ. & Protection Ass'n v. SEPTA, 564
Prisoners' Legal Serv. of N.Y. v. N.Y. State Dep't of Correctional Servs., 285

GARNISHMENT

See also ATTACHMENT, CONSUMER

ALIMONY

Booyer v. United States [45,424], 1550
Waters v. Albanese, 1374

APPLICABLE LAW

Chaloux v. Killeen, 560

BANK ACCOUNTS

Delta Fertilizer, Inc. v. Weaver, 1374

Exemptions

Frazier v. Marine Midland Bank, 214
Montgomery Ward Credit Corp. v. Brewer [44,517], 178
Schaerrer v. Westman Comm'n Co. [40,846], 59

> Benefit Programs

Collins, Webster & Rouse v. Coleman, 1465
Jones v. Goodson, 997
Jones v. Marion Small Claims Court [44,428], 176
Long v. Huppert [44,429], 176
Younger v. Mitchell [45,278], 997, 1308

EXEMPTIONS

Montgomery Ward Credit Corp. v. Brewer [44,517], 178
Travelers Ins. Cos. v. Fountain City Fed. Credit Union, 1465

Federal Benefits

Booyer v. United States [45,424], 1550
Collins, Webster & Rouse v. Coleman, 1465
Frazier v. Marine Midland Bank, 214
Jones v. Goodson, 997
Jones v. Marion Small Claims Court [44,428], 176
Long v. Huppert [44,429], 176
Perkins v. Kocher [43,096], 177

PENSION BENEFITS

Perkins v. Kocher [43,096], 177
Travelers Ins. Cos. v. Fountain City Fed. Credit Union, 1465

POST JUDGMENT

Procedures

Kirby v. Sprouls [44,387], 58, 1012
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309

PROCEDURES

Burris v. Mahaney [44,908], 731
Jones v. Marion Small Claims Court [44,428], 176
Long v. Huppert [44,429], 176
Toney v. Burris [40,994], 988

RETIREMENT BENEFITS

Military

Booyer v. United States [45,424], 1550
Jones v. Goodson, 997

THREAT OF GARNISHMENT

Unlawful Collection Practices

Chaloux v. Killeen, 560
Seabrook v. Onondaga Bureau of Medical Economics [44,460], 177

WAGES

Burris v. Mahaney [44,908], 731
Jackson v. Galan, 213
Kirby v. Sprouls [44,387], 58, 1012
Toney v. Burris [40,994], 988
Via v. Colonia Am. Nat'l Bank (*In re* Via) [45,232], 1307

Spouses

> Child Support

Blackman v. Blackman, 562
Crockett v. Dobbs, 986
Missouri v. Thurwalker, 285
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309

GOVERNMENT

See also MUNICIPAL-GOVERNMENT SERVICES

Federal Emergency Management Agency, *In re* [45,235], 1320

EQUITABLE ESTOPPEL

Lentz v. McMahon [35,114], 913

FEDERAL TORT CLAIMS ACT

Valentine v. United States, 286

LIABILITY

Benson v. Kutsch, 711
Reid v. Kayye [44,676], 625, 1380

Sovereign Immunity

Gray v. Rankin, 1465
Tyler v. Housing Auth. of Kansas City, 1573
Will v. Michigan Dep't of State Police, 559

HANDICAPPED PERSONS

ARCHITECTURAL BARRIERS

Barrier-Free Access

Green v. Chicago Hous. Auth. [44,669], 613, 901

DEAF PERSONS

B., T.S., *In re*, 85

DISCRIMINATION

Celorie v. Comair, Inc. [44,656], 603
Doe v. Ball, 1575
Kohl v. Woodhaven Learning Center [43,272], 84
Murphy v. Senior Servs. Div., 86
Robertson v. Chen [44,955], 1322
S. v. Baksh [45,247], 1327
S. v. Georgia Bd. of Educ. [45,152], 1320
Samaroff v. Northeast Ill. Regional Commuter R.R. [45,244], 1321
W. v. Rochester, N.H., School Dist. [44,667], 602

Deaf Persons

Board of Educ. v. Human Rights Comm'n, 1469
Rothschild v. Grottenthaler, 1378, 1573

Housing

Baxter v. City of Belleville, Ill. [44,750], 612, 1329, 1445
Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n, 710
Green v. Chicago Hous. Auth. [44,669], 613, 901
Hazelton v. Questa Vida Homeowners Ass'n [44,563], 327
Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191], 1330
Lapp v. Zieky [45,363], 1449
Tellurian U.C.A.N., Inc. v. Goodrich [45,192], 1330

Prisoners

Bonner v. Arizona Dep't of Corrections, 993

EDUCATION

J. v. Commissioner, N.H. Dep't of Educ., 1469
Moore v. District of Columbia [45,053], 1463
W. v. Rochester, N.H., School Dist. [44,667], 602

Appropriate Education Programs

Board of Educ. v. Human Rights Comm'n, 1469
Burr v. Sobol [45,322], 1469
DeVries v. Fairfax County School Bd. [43,722], 1377
Dickson, *In re* [44,963], 896
Gillette v. Fairland Bd. of Educ., 1572

> Judicial Review

Dellmuth v. Muth, 559
Kerkam v. McKenzie, 84
P., D., *In re*, 1469
Spiegler v. District of Columbia, 214

> Private Schools

Doe v. Smith, 989
Lascari v. Board of Educ., 990
Leonard v. McKenzie, 564
Thornock v. Boise Indep. School Dist. 1, 216

> Public Schools

Lascari v. Board of Educ., 990
Leonard v. McKenzie, 564
Martinez v. School Bd. of Hillsborough County, Fla., 710
S. v. Georgia Bd. of Educ. [45,152], 1320

> Residential Schools

Doe v. Smith, 989
G., B. v. Cranford Bd. of Educ., 216
H. v. Carroll [45,234], 1321
M. v. Robstown Indep. School Dist. [44,605], 315
Walker, *In re*, 1465

> School Costs

Briggs v. Board of Educ., 564
Carrington v. Commissioner of Educ., 286
Knight v. District of Columbia, 989
Lascari v. Board of Educ., 990
Leonard v. McKenzie, 564

Deaf Children

Board of Educ. v. Human Rights Comm'n, 1469

Diagnosis and Evaluation

S. v. Toguchi [45,021], 1018

Discipline

> Suspension

Hayes v. Unified School Dist. No. 377, 988
W., Christopher v. Portsmouth School Comm., 989

Discrimination

Doe v. Sanders, 1376
Doherty v. Southern College of Optometry, 84
Hendricks v. Gilhool [44,468], 180
Rothschild v. Grottenthaler, 1378, 1573

> Integration

Martinez v. School Bd. of Hillsborough County, Fla., 710

Emotionally Disturbed Children

Dickson, *In re* [44,963], 896
Metropolitan Gov't v. Tennessee Dep't of Educ., 990

Fees

Doe v. Smith, 989

Hearings

Cox v. Jenkins, 989
Kerkam v. McKenzie, 84
W. v. Tirozzi [39,487], 286

Institutions for Mentally Retarded

Cullum v. Faith Mission Home, Inc., 564

Learning Disabled Children

Gillette v. Fairland Bd. of Educ., 1572

Mentally Handicapped Persons

Shook v. Gaston County Bd. of Educ., 989
Thornock v. Boise Indep. School Dist. 1, 216

Placement

> Due Process

Gillette v. Fairland Bd. of Educ., 1572
P., D., *In re*, 1469
W. v. Tirozzi [39,487], 286

» Parents' Rights

Board of Educ. v. Human Rights Comm'n, 1469
Cox v. Jenkins, 989
Martinez v. School Bd. of Hillsborough County, Fla., 710

> Emotionally Disturbed Children

Metropolitan Gov't v. Tennessee Dep't of Educ., 990

> Hearing Decisions

Kerkam v. McKenzie, 84

> Least Restrictive Alternative

M. v. Robstown Indep. School Dist. [44,605], 315
Martinez v. School Bd. of Hillsborough County, Fla., 710

> Parents' Rights

Cox v. Jenkins, 989

> Private Schools

Briggs v. Board of Educ., 564
Carrington v. Commissioner of Educ., 286
Knight v. District of Columbia, 989

> Public Schools

S. v. Georgia Bd. of Educ. [45,152], 1320

> Residential Schools

Drew v. Clarke County School Dist., 989
G., B. v. Cranford Bd. of Educ., 216
H. v. Carroll [45,234], 1321

> Timely Evaluation and Placement

H. v. Carroll [45,234], 1321

Residential Schools

Doe v. Smith, 989
H. v. Carroll [45,234], 1321

Special Education

S. v. Toguchi [45,021], 1018

> State Administration and Financing

Children Residing at St. Aloysius Home, *In re* [44,866], 738

> Tuition Reimbursement

Dellmuth v. Muth, 559

Transportation

Dickson, *In re* [44,963], 896
Macomb County Intermediate School Dist. v. Joshua S., 1377

EMPLOYMENT DISCRIMINATION

Davidson v. Shoney's Big Boy Restaurant, 710
Indiana Civil Rights Comm'n v. Southern Ind. Gas & Elec., 1378
Kut-Kwick Corp. v. Johnson, 216
McMullen v. Labor & Indus. Rev. Comm'n, 85
Melvin v. Kim's Restaurant, Inc., 989
Plourde v. Scott Paper Co., 216
Smolarek v. Chrysler Corp., 988
Wilks v. Taylor School Dist., 216

Deaf Persons

Cousins v. Secretary of United States Dep't of Transp., 989

Definition of Qualified Individual

Casteel v. Consolidation Coal Co., 990
Colorado Civil Rights Comm'n v. North Washington Fire Protection Dist., 563
Means v. Jowa Sec. Servs., 709

Mentally Handicapped

Yuhase v. County of Macomb, 559

Rehabilitation Act

> Section 504

Cousins v. Secretary of United States Dep't of Transp., 989
Doe v. County of Cook [45,246], 1317
Leake v. Long Island Jewish Medical Center, 286

Reinstatement

Casteel v. Consolidation Coal Co., 990

EPILEPTICS

Davidson v. Shoney's Big Boy Restaurant, 710
Wilson v. Capitol Hill Hosp. [44,716], 602

HANDICAPPED CHILDREN'S PROTECTION ACT

C., Shelly v. Venus Indep. School Dist., 985
Hyden v. Board of Educ. of Wilson County, 985
Williams v. Boston School Comm., 558

INSTITUTIONALIZATION

Alessi v. Commonwealth of Pa., Dep't of Pub. Welfare, 710
Society for Good Will for Retarded Children v. Cuomo [26,198], 1378

LEAST RESTRICTIVE ALTERNATIVE

Illinois v. Woodstock Assocs., I [45,361], 1321
Kohl v. Woodhaven Learning Center [43,272], 84
S. v. Flaherty [36,533], 750, 894

Community-Based Programs

Arnold v. Arizona Dep't of Health Servs., 992

> Establishment

H. v. Edwards [43,132], 601

> Zoning

Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

MENTALLY HANDICAPPED

Appropriate Education Programs

Thornock v. Boise Indep. School Dist. 1, 216

Community Placement

City of Jewell Junction v. Cunningham, 565
Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n, 710
Mehta v. Surles, 1469

MENTALLY RETARDED

Brown, *In re*, 990
City of Philadelphia v. Pennsylvania Dep't of Pub. Welfare [45,187], 1321
Cullum v. Faith Mission Home, Inc., 564
Dull v. Delaware County Dep't of Pub. Welfare [43,740], 189
Maxey v. Fulton, 1464
McDonald's Sherwood Forest v. Department of Employment Sec., 572
Mississippi Protection & Advocacy Sys. v. Cotten [45,186], 1338
Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia, 710
S. v. Flaherty [36,533], 750, 894
S., R.M., *In re*, 1378
Shook v. Gaston County Bd. of Educ., 989
Society for Good Will for Retarded Children v. Cuomo [26,198], 1378

Community Living Arrangements

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
H. v. Edwards [43,132], 601
Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191], 1330
Illinois v. Woodstock Assocs., I [45,361], 1321
Lynch Community Homes, Appeal of, *In re*, 218
Millcreek Township Zoning Ordinance No. 87-24, *In re* [45,189], 1334
P., D., *In re*, 1469
Tellurian U.C.A.N., Inc. v. Goodrich [45,192], 1330
Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

Parents' Rights

Alessi v. Commonwealth of Pa., Dep't of Pub. Welfare, 710

REHABILITATION ACT

Child v. Spillane, 213
Doe v. Ball, 1575
Hendricks v. Gilhool [44,468], 180
Kohl v. Woodhaven Learning Center [43,272], 84
Rothschild v. Grottenthaler, 1378, 1573
S. v. Toguchi [45,021], 1018

Mentally Retarded

McDonald's Sherwood Forest v. Department of Employment Sec., 572

Private Right of Action

Cousins v. Secretary of United States Dep't of Transp., 989
Doe v. Attorney Gen. of United States, 1470
Housing Auth. of Lake Charles v. Pappion, 565

Section 504

Bonner v. Arizona Dep't of Corrections, 993
Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
Doe v. County of Cook [45,246], 1317
Doherty v. Southern College of Optometry, 84
Leake v. Long Island Jewish Medical Center, 286
Paralyzed Veterans of Am. v. Skinner [44,862], 738
Rothschild v. Grottenthaler, 1378, 1573
S. v. Georgia Bd. of Educ. [45,152], 1320
Samaroff v. Northeast Ill. Regional Commuter R.R. [45,244], 1321

> Administrative Complaint

Cousins v. Secretary of United States Dep't of Transp., 989

> Implementing Regulations

Americans Disabled for Accessible Pub. Transp. v. Skinner [43,230], 737

RIGHT TO TREATMENT

Hanson v. Clark County, Iowa, 216

TRANSPORTATION

Celorie v. Comair, Inc. [44,656], 603
Macomb County Intermediate School Dist. v. Joshua S., 1377
Paralyzed Veterans of Am. v. Skinner [44,862], 738

Public Transportation

> Accessibility

Americans Disabled for Accessible Pub. Transp. v. Skinner [43,230], 737
Buchanan v. Clark County Pub. Transp. Benefit Area Auth. [43,644], 1322
Samaroff v. Northeast Ill. Regional Commuter R.R. [45,244], 1321

WELFARE

Upson v. Watson [43,792], 764

In-Home Supportive Services

Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia, 710

HEALTH

See also HILL-BURTON ACT, MEDICAID, MEDICAL ASSISTANCE PROGRAMS, MEDICARE, MENTAL HEALTH

AIDS

Baxter v. City of Belleville, Ill. [44,750], 612, 1329, 1445
Botero Gomez v. United States, 1574
Cameron v. Metcuz, 219
Chapoton v. Majestic Caterers, Inc. [44,286], 598
Child v. Spillane, 213
Dallas Gay Alliance v. Dallas County Hosp. Dist., 1378
Doe v. Attorney Gen. of United States, 1470
Doe v. Ball, 1575
Doe v. County of Cook [45,246], 1317
Dotson v. St. Mary's Hosp. Corp. [44,514], 181
Dunn v. White, 993
Feigley v. Fulcomer, 1472
Hawley v. Evans, 1381
Illinois v. Madison [44,896], 727
M. v. Watson [44,568], 318
Martinez v. School Bd. of Hillsborough County, Fla., 710
Neal v. United States Postal Serv. [45,124], 1046
Robertson v. Chen [44,955], 1322
S. v. Baksh [45,247], 1327
T., *In re* [44,483], 201
Weaver v. Reagen [44,533], 85, 1322
Wiggins v. Maryland [44,574], 307

ALCOHOLISM

Henson v. Washington Employment Sec. Dep't, 1475

Treatment

Bedford v. Sugarman [42,960], 565

COMMUNICABLE DISEASES

Kohl v. Woodhaven Learning Center [43,272], 84

DENTAL CARE

Brown v. Kizer [43,729], 1443
Cooke v. Superior Court of Butte County [44,985], 899

DISCRIMINATION

Cook v. Ochsner Found. Hosp. [3973], 606

DRUG ABUSE

Monaghan v. Crawford, 83

DRUGS

Weaver v. Reagen [44,533], 85, 1322

FAMILY PLANNING SERVICES

Lickness v. Kizer [45,336], 1443

HEALTH CARE SYSTEMS

Kinlaw v. California [42,872], 741

HEALTH MAINTENANCE ORGANIZATIONS

Cox v. Michigan Ins. Bureau [44,956], 1026
Hungerford v. Michigan Ins. Bureau [44,957], 1026
Levy v. Bowen [43,624], 181, 1305
Rimback v. Michigan Ins. Bureau [44,958], 1026

Medicaid

Oglesby v. Barry [45,472], 1553

HOSPITALS

Access

> Indigents

Inspector Gen. v. Burditt [45,013], 1025
Mazon v. Flagstaff Health Management [44,758], 603
Owens v. Nacogdoches County Hosp. Dist. [45,201], 1324
Ritter v. Wayne County Gen. Hosp. [43,281], 286

Collection Practices

Lichtman v. Grossbard, 217
Odem, *In re*, 216
Touset v. Medicredit, Inc. [45,008], 1012

> Medicaid Recipients

Williamson County Medical Center v. Dixon [45,129], 1326

Discrimination

Cook v. Ochsner Found. Hosp. [3973], 606
Wilson v. Capitol Hill Hosp. [44,716], 602

Emergency Assistance

Inspector Gen. v. Burditt [45,013], 1025
Owens v. Nacogdoches County Hosp. Dist. [45,201], 1324
Wilson v. Capitol Hill Hosp. [44,716], 602

Negligence

Wilson v. Capitol Hill Hosp. [44,716], 602

Patients' Rights

Dotson v. St. Mary's Hosp. Corp. [44,514], 181

Transfers

Inspector Gen. v. Burditt [45,013], 1025

LEAD POISONING

Prescott v. Philadelphia Hous. Auth., 287

LIFE-SUSTAINING TREATMENT

Georgia v. McAfee, 1469

Nutrition and Hydration

Browning, Guardianship of, *In re* [45,085], 710, 1022
Gray v. Romeo, 559
Greenspan, Estate of, *In re* [45,086], 1022
McConnell v. Beverly Enterprises-Connecticut [44,047], 216, 1022
Westchester County Medical Center v. Hall [44,046], 1022

NURSING HOMES

Abuse of Residents

State College Manor, *In re* [45,121], 1024

Administration

Jacobson v. Wilson Care, Inc. [45,243], 1326

Admissions

Devine v. Maryhaven, Inc. [44,454], 1023
Texas Health Care Ass'n v. Bowen [44,361], 62
United States v. Downtown Jewish Home for the Aged [45,082], 1022

Conditions

State College Manor, *In re* [45,121], 1024

Contracts for Care

Devine v. Maryhaven, Inc. [44,454], 1023
Lichtman v. Grossbard, 217

> Enforcement

Heritage House Partnership v. Frazier [45,080], 1024

Costs

Lichtman v. Grossbard, 217

Federal Standards

Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898

Financing

Illinois v. Woodstock Assocs., I [45,361], 1321

Ombudsman Program

Hoffman v. Otwell [43,637], 1341

Patient Funds

Jacobson v. Wilson Care, Inc. [45,243], 1326
State College Manor, *In re* [45,121], 1024

Patients' Rights

Georgia v. McAfee, 1469
Jacobson v. Wilson Care, Inc. [45,243], 1326

Reform

Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898

Regulation of

Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898

Relocation

> Plan

State College Manor, *In re* [45,121], 1024

Social Security Checks

Jacobson v. Wilson Care, Inc. [45,243], 1326

Transfers

> Transfer Trauma

State College Manor, *In re* [45,121], 1024

RECORDS

Dotson v. St. Mary's Hosp. Corp. [44,514], 181

HILL-BURTON ACT

See also HEALTH, MEDICAID, MEDICAL ASSISTANCE PROGRAMS, MEDICARE

ALLOCATION OF SERVICES

Cook v. Ochsner Found. Hosp. [3973], 606

COMMUNITY SERVICE OBLIGATION

Lile v. University of Iowa Hosp. & Clinics [40,577], 1018
Mazon v. Flagstaff Health Management [44,758], 603

REGULATIONS

Compliance

Owens v. Nacogdoches County Hosp. Dist. [45,201], 1324
Ritter v. Wayne County Gen. Hosp. [43,281], 286

UNCOMPENSATED CARE

Lile v. University of Iowa Hosp. & Clinics [40,577], 1018

Eligibility

> Due Process

Mazon v. Flagstaff Health Management [44,758], 603

HOMELESS

See HOUSING

HOUSING

See also COMUNITY DEVELOPMENT, RELOCATION, URBAN RENEWAL, ZONING

BLOCK GRANTS

Community Development Block Grants

Comer v. Kemp [45,360], 1447

> Administration

Pearce v. Barry [44,997], 904

> Objections to Proposed Projects

Houston v. City of Cocoa [44,272], 1445

BROOKE AMENDMENT

Derrick v. Pierce [44,516], 186
Miles v. Metropolitan Dade County [45,016], 1027
Sylvester v. HUD [44,792], 745

CONDEMNATION AND EMINENT DOMAIN

Relocation Assistance

Connelly v. Springfield Redevelopment Auth. [44,389], 66
Garcia v. Anthony [45,109], 1031

CONDOMINIUM CONVERSION

Eviction

Barone v. 228-244 Main Garden Corp. [44,486], 192, 1032
Duncan v. Corliss [44,968], 1032

Senior Citizens

Coronet Properties v. Township of North Bergen [44,463], 193, 1562
Ellin Corp. v. Township of North Bergen [44,464], 193

CONSTRUCTION

Township of Bernards v. New Jersey Dep't of Community Affairs, 562

Low- to Moderate-Income Housing

ABN 51st St. Partners v. City of New York, 1470

DEMOLITION

Houston v. City of Cocoa [44,272], 1445
Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902
Project B.A.S.I.C. v. Kemp [45,266], 1329, 1470

Municipal Authority

Resident Council of Allen Parkway Village v. HUD [44,608], 320

DISCRIMINATION

Federal Emergency Management Agency, *In re* [45,235], 1320
Schmidt v. Superior Court [39,681], 286
Worcester Hous. Auth. v. Massachusetts Comm'n Against Discrimination [42,126], 902, 1448

Approval of Low-Income Housing

Guyton v. City of Alameda [44,257], 321

Fair Housing

Comer v. Kemp [45,360], 1447
Durrett v. Housing Auth. of Providence [45,445], 1555
Gorski v. Troy, 990
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Hoyesen v. Prete [43,364], 612
Hughes v. Housing Auth. of Dallas [45,471], 1559
Lapp v. Zieky [45,363], 1449
Project B.A.S.I.C. v. Kemp [45,266], 1329, 1470
United States v. Charlottesville Redevelopment & Hous. Auth., 1379

> City Rejection

Doe v. City of Butler, Pa. [44,660], 611, 1573
Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191], 1330
Tellurian U.C.A.N., Inc. v. Goodrich [45,192], 1330

> Code Violations

Brindis v. California Dep't of Transp. [44,977], 903

Handicapped Persons

Baxter v. City of Belleville, Ill. [44,750], 612, 1329, 1445
Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n, 710
Hazelton v. Questa Vida Homeowners Ass'n [44,563], 327
Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191], 1330
Lapp v. Zieky [45,363], 1449
Tellurian U.C.A.N., Inc. v. Goodrich [45,192], 1330
Turner v. United Cerebral Palsy Ass'n, 565

Racial Discrimination

Comer v. Kemp [45,360], 1447
Durrett v. Housing Auth. of Providence [45,445], 1555
Guyton v. City of Alameda [44,257], 321
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Hawkins v. Kemp [45,485], 1558
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
NAACP, City of Commerce Branch v. Housing Auth. of City of Commerce [44,784], 746
Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902
Project B.A.S.I.C. v. Kemp [45,266], 1329, 1470
Ragin v. The New York Times Co., 1571
Turner v. Illinois Human Rights Comm'n, 85

Racial Steering

United States v. Charlottesville Redevelopment & Hous. Auth., 1379

Single Parent

Harrison v. Town of Old Saybrook [44,685], 611, 1555
Hughes v. Housing Auth. of Dallas [45,471], 1559

EMERGENCY ASSISTANCE

Dorman v. Eichler [45,327], 1461
Federal Emergency Management Agency, *In re* [45,235], 1320
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Koster v. Perales [38,504], 724
Phillips v. Pennsylvania Hous. Fin. Agency, 217

Shelters

Atchinson v. Barry [44,155], 617
Burlington County Welfare Bd. v. B. [44,432], 209
Coker v. Bowen, 1378

Savage v. Aronson [44,743], 642, 1354

> Closures

Bedford v. Sugarman [42,960], 565
Hilton v. City of New Haven [44,705], 617, 746, 1449
Scates v. Rydingsword [44,692], 616, 1333

FAIR RENTAL HOUSING ACT

Green v. Chicago Hous. Auth. [44,669], 613, 901
Lapp v. Zieky [45,363], 1449

FARMERS HOME ADMINISTRATION

Tucker v. Atwood [37,742], 990

FmHA Homeownership Programs

> Administrative Appeals Procedure

Williams v. Lyng [41,616], 744

> Breach of Loan Contract

Clark v. Yeutter [45,436], 1557
Gray v. Rankin, 1465

> Compensation for Construction Defects

Gray v. Rankin, 1465

> Foreclosures

Williams v. Lyng [41,616], 744

> Moratorium Relief

Williams v. Lyng [41,616], 744

FmHA Rental Housing Program

> Admissions

» Eligibility

Ortiz, *In re* [44,714], 621

> Code Violations

Ortiz, *In re* [44,714], 621

> Evictions

» Grievance Procedures

Brewer v. Lyng [43,174], 1557

» Notice

Beddingfield v. Tag Management [44,708], 614
Betron, Inc. v. Bradley [44,606], 322
Seventh Hous. Corp. v. Levinson [45,329], 1449

> Leases

Betron, Inc. v. Bradley [44,606], 322
Clark v. Yeutter [45,436], 1557
Ortiz, *In re* [44,714], 621

> Rent

Clark v. Yeutter [45,436], 1557

FEDERAL HOUSING PROGRAMS

Montgomery v. HUD [40,514], 1329
Valentine v. United States, 286

Admissions

> Selection Procedures

Pruticka v. Posner, 991

> Substantive Selection Policies

Barnes v. Gonzalez-Correa [45,154], 1332
Hann v. Housing Auth. of Easton, 565
Hewett v. Gonzalez-Correa [45,156], 1332
Jackson v. Gonzalez-Correa [45,153], 1332

Conveyance of Property to HUD

Bronston v. Kemp [45,131], 1330

> Tenant's Rights in Foreclosure of FHA Subsidized Housing

Lomas & Nettleton v. Janes [44,489], 618

Evictions

> Grounds

Eastern Dev. Assocs. v. Corriveau [45,487], 1559
Memphis Hous. Auth. v. Henry [45,273], 1333
Quincy Hous. Auth. v. Johnson [45,038], 1333
Tapley v. Akron Metro. Hous. Auth. [44,579], 323
Zonner v. Heritage Hills, Ltd., 1379

> Procedures

Colonial Am. Dev. v. Griffith [44,682], 615, 1549

» Good Cause

Chicago Hous. Auth. v. Benson [44,673], 617
Eastern Dev. Assocs. v. Corriveau [45,487], 1559

» Notice

Beddingfield v. Tag Management [44,708], 614
Betron, Inc. v. Bradley [44,606], 322
Quincy Hous. Auth. v. Johnson [45,038], 1333

Excess Charges-Late Charges

Heritage Hills v. Deacon [44,664], 615

Grievance Procedure

> Hearings

Chicago Hous. Auth. v. Benson [44,673], 617
Milliner v. Pierce [44,425], 183

HUD-Insured Mortgages

Johnson v. HUD [44,243], 64, 1470
Orrego v. HUD [43,231], 319

> Assignment Program

Armstead v. HUD (*In re* Armstead) [44,519], 186
Brown v. Kemp [44,707], 615
Cronkhite v. Kemp [45,371], 1448
Gray v. HUD [45,473], 1558
Huderson v. HUD (*In re* Huderson) [45,100], 1029
Lee v. Kemp [43,709], 743
Santos v. HUD, 186
Tank v. HUD [44,694], 613, 902

> Private Cause of Action

Gray v. HUD [45,473], 1558
Lomas & Nettleton v. Janes [44,489], 618

Leases

> Unreasonable Provisions

Bernashe v. Comtois [44,588], 323
Heritage Hills v. Deacon [44,664], 615

Local Housing Authorities

Quincy Hous. Auth. v. Johnson [45,038], 1333
Tinsley v. Kemp [44,154], 1447

Loss of Units

Johnson v. HUD [44,243], 64, 1470
Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902
Orrego v. HUD [43,231], 319
Thetford Properties IV Ltd. Partnership v. United States [44,242], 65
Thetford Properties IV Ltd. Partnership v. HUD [44,241], 65, 185, 613

> Disposition by HUD

Frierson v. Pierce [45,078], 1028
Gilmerr v. Pierce [41,783], 63
Lee v. Kemp [43,709], 743

> Foreclosure of Mortgage

Lomas & Nettleton v. Janes [44,489], 618

Management

> Failure to Make Repairs

Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555
J.F.K. Tenants' Council v. J.F.K. I, Ltd. [45,408], 1559
McNeill v. New York City Hous. Auth., 1378

> Rent Collection Practices

Woodbridge Hous. Ltd. Partnership v. Alton [44,736], 620

Rent

Bronston v. Kemp [45,131], 1330
Derrick v. Pierce [44,516], 186
Martin v. East Side Hous. Corp. [45,014], 1029
Woodbridge Hous. Ltd. Partnership v. Alton [44,736], 620

Repairs

Heritage Hills v. Deacon [44,664], 615

> Failure to Make Repairs

Ayala v. Boston Hous. Auth., 565
J.F.K. Tenants' Council v. J.F.K. I, Ltd. [45,408], 1559
McNeill v. New York City Hous. Auth., 1378
Tinsley v. Kemp [44,154], 1447

> Inspection of Premises

Ayala v. Boston Hous. Auth., 565
J.F.K. Tenants' Council v. J.F.K. I, Ltd. [45,408], 1559

Section 221(d)(3)

Johnson v. HUD [44,243], 64, 1470

Section 235

Krepps v. Secretary of HUD [44,880], 744

Section 236

Woodbridge Hous. Ltd. Partnership v. Alton [44,736], 620

Security

> Security as Part of Warranty of Habitability

J.F.K. Tenants' Council v. J.F.K. I, Ltd. [45,408], 1559

Structural Defects

Illinois v. City of East St. Louis [44,585], 313

Tenant Organization and Participation

Country Village Tenant Ass'n v. Fairmount Heights Assocs. Ltd. Partnership [44,322], 64
Frierson v. Pierce [45,078], 1028

Utilities

> Utility Allowance

Giles v. Housing Auth. of Frankfort [45,074], 1556
Sylvester v. HUD [44,792], 745

HOMELESS

Atchinson v. Barry [44,155], 617
Burlington County Welfare Bd. v. B. [44,432], 209
Coker v. Bowen, 1378
Fields v. Johnson [44,465], 189
Gillen v. Putnam County Dep't of Health [44,160], 321
Harrison v. Sobol, 285
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Helms v. Essex County Div. of Welfare [44,482], 208
Hilton v. City of New Haven [44,705], 617, 746, 1449
Koster v. Perales [38,504], 724
Lee v. Kemp [43,709], 743
National Coalition for the Homeless v. VA [43,806], 1378
Neighbors for a Better Approach v. NEPA, 565
Pearce v. Barry [44,997], 904
Pottinger v. City of Miami, 1464
S., *In re* [44,655], 632
Savage v. Aronson [44,743], 642, 1354
Scates v. Rydingsword [44,692], 616, 1333
Sullivan v. Kuehling, 1379
Turner v. City of New Orleans [42,804], 1569
Williams v. Department of Human Servs. [44,944], 914, 997

HOUSING AND COMMUNITY DEVELOPMENT ACT

Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902

LANDLORD-TENANT

Appeal Bonds

Brassard v. Kuzmik [44,703], 622

Charges and Fees

Heritage Hills v. Deacon [44,664], 615
Highgate Assocs. v. Merryfield [45,382], 1451
Tulare County Hous. Auth., *In re* [44,552], 324

Code Violations

Kenyon v. Regan [45,482], 1563
Lezberg v. Rogers [44,922], 749
Marino v. Smart [44,566], 322

> Defense to Eviction

Mann v. Daum [44,910], 750
Marshall v. Melendez [45,229], 1337

> Enforcement

California *ex rel.* City of Wheatland v. Alfaro [44,709], 623, 749

> Inspection

Benson v. Kutsch, 711

> Receivership

California *ex rel.* City of Wheatland v. Alfaro [44,709], 623, 749

> Refusal to Correct

Baines v. Savage [45,486], 1563
Lewis v. Savage [45,488], 1563

> Rent Suspension

Miller v. Ritchie [44,621], 326, 1337

> Rent Withholding

Oak Park Trust & Sav. Bank v. Village of Mount Prospect [44,373], 68

> Standing to Challenge

Fitelson v. 889-5th Ave. Realty [44,578], 328

Condominium Conversion

Barone v. 228-244 Main Garden Corp. [44,486], 192, 1032
Coronet Properties v. Township of North Bergen [44,463], 193, 1562
Duncan v. Corliss [44,968], 1032
Ellin Corp. v. Township of North Bergen [44,464], 193
R/L Assoc., Inc. v. City of Seattle, 1470

Consumer Protection Act

Haines v. Athey [44,077], 326

> Applicability of

Love v. Amsler, 992
Vena v. Buckner [44,358], 88
Wade v. Jobe [45,423], 1562

Demolition of Premises

Barone v. 228-244 Main Garden Corp. [44,486], 192, 1032
Seawall Assocs. v. City of New York, 1379

Discrimination

Foreman v. Anchorage Equal Rights Comm'n, 1471
Swartz v. Gantz Inv. Properties [42,572], 1437

> Fair Housing

Gorski v. Troy, 990

> Handicapped Persons

Hazelton v. Questa Vida Homeowners Ass'n [44,563], 327

> Racial

Bradley v. Carydale Enters., 287
Turner v. Illinois Human Rights Comm'n, 85

> Tenants with Children

Gorski v. Troy, 990

> Welfare Recipients

Hoyesen v. Prete [43,364], 612

Evictions

Barone v. 228-244 Main Garden Corp. [44,486], 192, 1032
Colonial Am. Dev. v. Griffith [44,682], 615, 1549
Villa Del Sol Apartments v. Gill [44,610], 328

> Affirmative Defenses

Aronson v. Handy [44,403], 69
Lewisburg Elderly Assocs. v. Donner [44,623], 323
Nolan v. Donohue [44,472], 192

> Constructive Eviction

Baines v. Savage [45,486], 1563
Brown v. Read [45,332], 1451
Kenyon v. Regan [45,482], 1563
Lewis v. Savage [45,488], 1563
McWilliams v. Hayes, 711

> Counterclaims

Evans v. Wall, 566
Miller v. Ritchie [44,621], 326, 1337
Oak Park Trust & Sav. Bank v. Village of Mount Prospect [44,373], 68
Smith v. Justice of the Peace Court No. 1 [45,348], 1451

> Damages

Highgate Assocs. v. Merryfield [45,382], 1451
Marshall v. Melendez [45,229], 1337

»Emotional Distress

Parker v. Stein [44,889], 749

> Defenses

Four Hundred Forty Seven Assocs. v. Miranda, 992
Richardson v. Vanderwilt [45,374], 1449
Yates, *In re* [45,364], 1432

»Housing Authority Approval

Barre Hous. Auth. v. Kwan Ngan [44,500], 188

»Procedural Defenses

Milano v. Jones [44,895], 727

»Retaliatory Eviction

Aronson v. Handy [44,403], 69
Hillview Assoc. v. Bloomquist, 711
Wolfe v. Martin [44,755], 623

»Tenant Organizations and Organizing

Hillview Assoc. v. Bloomquist, 711

> Due Process

Donaldson v. New York [44,366], 69
Duhon v. Arkansas [44,938], 1034
Morillo v. City of New York [44,727], 618
United States v. Wilson, 993

> Hearings

Donaldson v. New York [44,366], 69

> Jury Trial

»Right to

Lamarre v. Cipolla [44,745], 588
Meadow Park Garden Assocs. v. Canley, 711
North School Congregate Hous. v. Merrithew [43,955], 191, 622

> Landlord's Personal Occupancy

Notias v. Melendez [44,362], 69

> Late Payments

Highgate Assocs. v. Merryfield [45,382], 1451

> Liens on Household Goods

Moore v. Republic Moving & Storage [44,427], 191

> Mobile Homes

Dibiase v. State Mobile Homes [44,744], 623

»Month-to-Month Leases

Atencio v. Sollenbarger [44,619], 328

»Notice

Atencio v. Sollenbarger [44,619], 328
Jacob's Mobile Homes v. Zaugg [45,093], 1035

> Notice

Chavez v. Hernandez [44,321], 66
Fosco v. YMCA of Lansing [44,551], 327
George v. Woodman [44,502], 192
Morillo v. City of New York [44,727], 618
Notias v. Melendez [44,362], 69
Reid v. Reid [45,222], 1337
Richardson v. Vanderwilt [45,374], 1449
Sicherman Management Corp./POMP v. St. Hillaire [44,591], 329

»Bilingual

Barre Hous. Auth. v. Kwan Ngan [44,500], 188

> Payment and Acceptance of Rental Balance

Lehndorff U.S.A. LTD v. 1330 19th St. Corp. [44,595], 1035

> Rent

»Deposit in Court

Lehndorff U.S.A. LTD v. 1330 19th St. Corp. [44,595], 1035

»Increases

Four Hundred Forty Seven Assocs. v. Miranda, 992

»Nonpayment of Rent

Mann v. Daum [44,910], 750

»Withholding

Miller v. Ritchie [44,621], 326, 1337

> Residential Hotels

Fosco v. YMCA of Lansing [44,551], 327
George v. Woodman [44,502], 192

> Retaliatory

Aronson v. Handy [44,403], 69
Woodbridge Hous. Ltd. Partnership v. Alton [44,736], 620

> Self-Help

»Lockout

Brown v. Read [45,332], 1451
Fosco v. YMCA of Lansing [44,551], 327

> Senior Citizens

Coronet Properties v. Township of North Bergen [44,463], 193, 1562
Ellin Corp. v. Township of North Bergen [44,464], 193

> Service of Process

Reid v. Reid [45,222], 1337

> Stay Pending Appeal

Spruce Park Apartments v. Beckett, 217

> Summary Proceedings

Donaldson v. New York [44,366], 69
Eastern Dev. Assocs. v. Corriveau [45,487], 1559
Spruce Park Apartments v. Beckett, 217

»Notice

Aronson v. Handy [44,403], 69
Quincy Hous. Auth. v. Cowart [44,473], 188
Sicherman Management Corp./POMP v. St. Hillaire [44,591], 329

> Tenants with Children

Eastern Dev. Assocs. v. Corriveau [45,487], 1559

Late Charges

> Excessive Charges

»Liquidated Damages

Highgate Assocs. v. Merryfield [45,382], 1451

> Penalties

Highgate Assocs. v. Merryfield [45,382], 1451

Lead Poisoning

Ayala v. Boston Hous. Auth., 565
Garcia v. Jiminez, 992

Leases

> Illegal Clauses

Bernashe v. Comtois [44,588], 323
Fitelson v. 889-5th Ave. Realty [44,578], 328
Likens v. Inland Real Estate Corp., 711
Vena v. Buckner [44,358], 88

> Novation Fees

Likens v. Inland Real Estate Corp., 711

> Redecoration

Highgate Assocs. v. Merryfield [45,382], 1451

> Subleases

»Landlord's Consent Requirements

United States v. Wilson, 993

> Termination

Barre Hous. Auth. v. Kwan Ngan [44,500], 188
Spruce Park Apartments v. Beckett, 217

»Terms and Conditions

Fitelson v. 889-5th Ave. Realty [44,578], 328
Morf v. Bredemann [43,634], 1035

Quiet Enjoyment

Lewisburg Elderly Assocs. v. Donner [44,623], 323
Wolfe v. Martin [44,755], 623

Rent

Baines v. Savage [45,486], 1563
Lewis v. Savage [45,488], 1563

> Abatement

Clarkson Mobile Home Park v. Ecklund [44,909], 750
Mann v. Daum [44,910], 750
Miller v. Ritchie [44,621], 326, 1337

> Acceptance in Lieu of Eviction

Lehndorff U.S.A. LTD v. 1330 19th St. Corp. [44,595], 1035

> Arrearages

»Defenses

Miller v. Ritchie [44,621], 326, 1337
P.H. Inv. v. Oliver [44,980], 905
Yousif v. Ortuno [44,992], 906

> Increases

Clarkson Mobile Home Park v. Ecklund [44,909], 750

»Lease Provisions

Four Hundred Forty Seven Assocs. v. Miranda, 992

> Surcharges

Clarkson Mobile Home Park v. Ecklund [44,909], 750

Rent Control

Notias v. Melendez [44,362], 69

Repairs

> Landlord's Duty

Allen v. Lee, 712
California *ex rel.* City of Wheatland v. Alfaro [44,709], 623, 749
Garcia v. Jiminez, 992
Mann v. Daum [44,910], 750
McWilliams v. Hayes, 711
P.H. Inv. v. Oliver [44,980], 905

> Repair and Deduct

Allen v. Lee, 712
Yousif v. Ortuno [44,992], 906

> Tenant's Duty

Heritage Hills v. Deacon [44,664], 615

Residential Hotels

> Eviction

Fosco v. YMCA of Lansing [44,551], 327
George v. Woodman [44,502], 192

> Notice

George v. Woodman [44,502], 192

> Summary Proceedings

»Lack of

Fosco v. YMCA of Lansing [44,551], 327

Security Deposits

Vena v. Buckner [44,358], 88

> Escrow Accounts

Nolan v. Donohue [44,472], 192

> Misappropriation

Marshall v. Melendez [45,229], 1337

Termination of Tenancy

Fitelson v. 889-5th Ave. Realty [44,578], 328
Spruce Park Apartments v. Beckett, 217

> Good Cause

Barone v. 228-244 Main Garden Corp. [44,486], 192, 1032
Morf v. Bredemann [43,634], 1035
Wolfe v. Martin [44,755], 623

> Month-to-Month

George v. Woodman [44,502], 192
Wolfe v. Martin [44,755], 623

> Notice

Bayview Found., Inc. v. Green [44,730], 620
George v. Woodman [44,502], 192
Reid v. Reid [45,222], 1337
Sicherman Management Corp./POMP v. St. Hillaire [44,591], 329

Torts

Cotto v. Jenney [44,802], 1435

> Code Violations

»Liabilities of Landlord

Mann v. Daum [44,910], 750

»Tenant's Remedies

Kenyon v. Regan [45,482], 1563
Mann v. Daum [44,910], 750

> Distraint of Tenant's Property

Parker v. Stein [44,889], 749

> Emotional Distress

Parker v. Stein [44,889], 749

> Harassment

Brown v. Read [45,332], 1451

> Lockout

Brown v. Read [45,332], 1451

> Negligence

»Landlord's Duty to Repair

Garcia v. Jiminez, 992
McWilliams v. Hayes, 711

»Landlord's Liability

Benser v. Johnson, 86
Garcia v. Jiminez, 992

> Negligence Per Se

Valentine v. United States, 286

> Security of Premises

Benser v. Johnson, 86

Unfair Practices

Connelly v. Housing Auth. of New Haven [45,226], 1332, 1448
Cotto v. Jenney [44,802], 1435
Lapp v. Zieky [45,363], 1449
Love v. Amsler, 992
White v. Pollock [44,573], 307

Utility Termination

> By Utility Company

Leach v. Hull Mun. Light Plant [45,089], 1037, 1339

Warranty of Habitability

> Breach

California *ex rel.* City of Wheatland v. Alfaro [44,709], 623, 749
Clarkson Mobile Home Park v. Ecklund [44,909], 750
Love v. Amsler, 992
Vena v. Buckner [44,358], 88

»Computation of Back Rent

Yousif v. Ortuno [44,992], 906

»Payment of Rent

P.H. Inv. v. Oliver [44,980], 905
Yousif v. Ortuno [44,992], 906

»Punitive Damages

Allen v. Lee, 712
McWilliams v. Hayes, 711

»Rent Abatement

Kenyon v. Regan [45,482], 1563
Mann v. Daum [44,910], 750
Miller v. Ritchie [44,621], 326, 1337

> Implied

P.H. Inv. v. Oliver [44,980], 905
Vena v. Buckner [44,358], 88
Wade v. Jobe [45,423], 1562

MOBILE HOMES

Atencio v. Sollenbarger [44,619], 328
Clarkson Mobile Home Park v. Ecklund [44,909], 750
Hillview Assoc. v. Bloomquist, 711
Jacob's Mobile Homes v. Zaugg [45,093], 1035
Morf v. Bredemann [43,634], 1035
Schmidt v. Superior Court [39,681], 286

Sites

Dibiase v. State Mobile Homes [44,744], 623

Zoning Ordinances

White v. Union County, 217

MORTGAGES

Krepps v. Secretary of HUD [44,880], 744
Thetford Properties IV Ltd. Partnership v. United States [44,242], 65
Thetford Properties IV Ltd. Partnership v. HUD [44,241], 65, 185, 613

Bankruptcy

Santos v. HUD, 186
Watts v. Pennsylvania Hous. Fin. Co. [42,578], 585

Default

Bennett v. Seave, 284
Brown v. Kemp [44,707], 615
GMAC Mortgage Corp. of Pa. v. Watford [44,562], 619
Huderson v. HUD (*In re* Huderson) [45,100], 1029
Phillips v. Pennsylvania Hous. Fin. Agency, 217

> Disclosure

Merchants Bank v. Lambert, 711

> Duty to Advise Mortgagor

Vianello v. Housing Fin. Agency, 991

> HUD Obligations

Cronkhite v. Kemp [45,371], 1448
Tank v. HUD [44,694], 613, 902

Foreclosure

Montgomery v. HUD [40,514], 1329
Watts v. Pennsylvania Hous. Fin. Co. [42,578], 585

> Appealable Judgment

Merchants Bank v. Lambert, 711

> Assignment of Mortgage

Armstead v. HUD (*In re* Armstead) [44,519], 186
Cronkhite v. Kemp [45,371], 1448
Gray v. HUD [45,473], 1558
Santos v. HUD, 186
Tank v. HUD [44,694], 613, 902

> Bankruptcy Bar to Sheriff's Sale

Harper v. Federal Land Bank of Spokane, 990

> Defenses

Cronkhite v. Kemp [45,371], 1448
Vianello v. Housing Fin. Agency, 991
Weber v. Albrecht, 285

» Waiver

Goodwin v. District Court [45,126], 1010

> Equity

GMAC Mortgage Corp. of Pa. v. Watford [44,562], 619

> VA-Insured Mortgages

Chemical Mortgage v. Cosgray [45,263], 1348

NATIONAL HOUSING ACT

Frierson v. Pierce [45,078], 1028
Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902
Pruticka v. Posner, 991
Thetford Properties IV Ltd. Partnership v. United States [44,242], 65
Thetford Properties IV Ltd. Partnership v. HUD [44,241], 65, 185, 613
United States v. Certain Leasehold Interests [45,072], 1028

HUD-Insured Mortgages

Brown v. Kemp [44,707], 615
Johnson v. HUD [44,243], 64, 1470

PUBLIC HOUSING

Administration

Davis v. Housing Auth. of Dallas [44,461], 187
Flowers v. Smith, 1573

Admissions

Addison v. Housing Auth. of Woonsocket [43,721], 320
NAACP, Boston Chapter v. Boston Hous. Auth. [45,446], 1557

> Eligibility

Oliver v. Housing Auth. of Augusta, 85

» Maximum Income Limits

Brindis v. California Dep't of Transp. [44,977], 903
Limehouse v. Chicago Hous. Auth. [44,797], 745

> Procedural Protections

Gilliam v. Housing Auth. of Mt. Sterling [44,434], 184

» Establishment of Policies

Hutchinson v. Ratzlaff [43,825], 901
Limehouse v. Chicago Hous. Auth. [44,797], 745

» Informal Hearing on Rejection

Hutchinson v. Ratzlaff [43,825], 901

» Maintenance of Records and Files

Limehouse v. Chicago Hous. Auth. [44,797], 745

» Notice of Status

Hutchinson v. Ratzlaff [43,825], 901
Limehouse v. Chicago Hous. Auth. [44,797], 745

» Prompt Decisions

Hutchinson v. Ratzlaff [43,825], 901

» Waiting Lists

Limehouse v. Chicago Hous. Auth. [44,797], 745

> Standards

Barnes v. Gonzalez-Correa [45,154], 1332
Jackson v. Gonzalez-Correa [45,153], 1332
Oliver v. Housing Auth. of Augusta, 85

» Arrest Record

Gilliam v. Housing Auth. of Mt. Sterling [44,434], 184
Grimes v. Springfield Hous. Auth. [45,213], 1334

» Income Levels

Brindis v. California Dep't of Transp. [44,977], 903

» Marital Status

Hann v. Housing Auth. of Easton, 565
Worcester Hous. Auth. v. Massachusetts Comm'n Against Discrimination [42,126], 902, 1448

» Minor's Eligibility

Hughes v. Housing Auth. of Dallas [45,471], 1559
Pruticka v. Posner, 991

» Prior Evictions

Gilliam v. Housing Auth. of Mt. Sterling [44,434], 184
Hewett v. Gonzalez-Correa [45,156], 1332

> Substantive Selection Policies

Barnes v. Gonzalez-Correa [45,154], 1332
Hewett v. Gonzalez-Correa [45,156], 1332
Jackson v. Gonzalez-Correa [45,153], 1332

Discrimination

Addison v. Housing Auth. of Woonsocket [43,721], 320
Brindis v. California Dep't of Transp. [44,977], 903
Hughes v. Housing Auth. of Dallas [45,471], 1559
Worcester Hous. Auth. v. Massachusetts Comm'n Against Discrimination [42,126], 902, 1448

> Assignment of Apartments

Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
NAACP, Boston Chapter v. Boston Hous. Auth. [45,446], 1557
United States v. Charlottesville Redevelopment & Hous. Auth., 1379

> Handicapped Persons

Green v. Chicago Hous. Auth. [44,669], 613, 901

> Racial

Comer v. Kemp [45,360], 1447
Durrett v. Housing Auth. of Providence [45,445], 1555
Fermaint v. New York City Hous. Auth., 565
Hawkins v. Kemp [45,485], 1558
Jaimes v. Toledo Metro. Hous. Auth. [12,140], 614
NAACP, Boston Chapter v. Boston Hous. Auth. [45,446], 1557
NAACP, City of Commerce Branch v. Housing Auth. of City of Commerce [44,784], 746
Project B.A.S.I.C. v. Kemp [45,266], 1329, 1470

Evictions

> Defenses

Bunch v. El Paso Hous. Auth. [45,257], 1331
Chicago Hous. Auth. v. Thomas [45,130], 1031, 1450
Edwards v. Fenn, 991
Hartford Hous. Auth. v. Montford [44,379], 66
Housing Auth. of Pittsburgh v. Green, 85
Pace v. Housing Auth. of Burkesville (*In re* Pace) [45,440], 1548
Tillis v. Housing Auth. of Atlanta, Ga. [45,437], 1560
United States v. Certain Leasehold Interests [45,072], 1028
Wilmington Hous. Auth. Evictions for Drug-Related Offenses, *In re* [44,876], 747

> Grounds

Akron Metro. Hous. Auth. v. Rice [44,581], 322

Barre Hous. Auth. v. Kwan Ngan [44,500], 188
Bunch v. El Paso Hous. Auth. [45,257], 1331
Oliver v. Housing Auth. of Augusta, 85
Quincy Hous. Auth. v. Johnson [45,038], 1333
Wilmington Hous. Auth. Evictions for Drug-Related Offenses, *In re* [44,876], 747
Zonner v. Heritage Hills, Ltd., 1379

»Noise

Housing Auth. of Lake Charles v. Pappion, 565

»Nonpayment of Rent

Burton v. Housing Auth. of Morgantown [44,488], 184
Housing Auth. of Pittsburgh v. Green, 85
St. Clair County Hous. Auth. v. Turner [44,680], 618
Tillis v. Housing Auth. of Atlanta, Ga. [45,437], 1560

»Nuisance

Hartford Hous. Auth. v. Montford [44,379], 66
Housing Auth. of Lake Charles v. Pappion, 565

»Undesirable Tenants

Harris v. Seattle Hous. Auth. [44,987], 1030
Memphis Hous. Auth. v. Henry [45,273], 1333

»Visitors and Guests

Gallatin Hous. Auth. v. Gifford [45,005], 1031

> Procedures

Adams v. Philadelphia Hous. Auth. (*In re* Adams) [44,377], 65
Bowens v. Philadelphia Hous. Auth. (*In re* Bowens) [44,378], 65
Chicago Hous. Auth. v. Benson [44,673], 617
Lee v. Housing Auth. of Morgantown [44,993], 901
Meadow Park Garden Assocs. v. Canley, 711
National Tenants Org. v. Kemp [43,958], 610

»Administrative Hearing

Burlington Hous. Auth. v. Jewer [44,756], 619
Chicago Hous. Auth. v. Thomas [45,130], 1031, 1450
Harris v. Seattle Hous. Auth. [44,987], 1030
Housing Auth. of Raleigh v. McCleain, 565
Schneider v. Fulton Hous. Auth. [45,218], 1334

»Notice

Burleigh County Hous. Auth. v. Montgomery [45,157], 1334
Burlington Hous. Auth. v. Jewer [44,756], 619
Burton v. Housing Auth. of Morgantown [44,488], 184
Morillo v. City of New York [44,727], 618
Quincy Hous. Auth. v. Cowart [44,473], 188
Quincy Hous. Auth. v. Johnson [45,038], 1333
Schneider v. Fulton Hous. Auth. [45,218], 1334
St. Clair County Hous. Auth. v. Turner [44,680], 618

»Review of Decision by Board of Commissioners

Schneider v. Fulton Hous. Auth. [45,218], 1334

Grievance Procedure

Adams v. Philadelphia Hous. Auth. (*In re* Adams) [44,377], 65
Bowens v. Philadelphia Hous. Auth. (*In re* Bowens) [44,378], 65
Burleigh County Hous. Auth. v. Montgomery [45,157], 1334
Chicago Hous. Auth. v. Benson [44,673], 617
Davis v. Housing Auth. of Dallas [44,461], 187
Lee v. Housing Auth. of Morgantown [44,993], 901
National Tenants Org. v. Kemp [43,958], 610
Waite v. Housing Auth. of City of Newport [44,658], 614

> Maintenance Charges

Hodge v. HUD [42,380], 85
Seales v. Diaz [43,992], 1331

Leases

Akron Metro. Hous. Auth. v. Rice [44,581], 322
National Tenants Org. v. Kemp [43,958], 610

> Visitors and Guests

Gallatin Hous. Auth. v. Gifford [45,005], 1031

Local Housing Authorities

Lee v. Housing Auth. of Morgantown [44,993], 901
Morillo v. City of New York [44,727], 618
Pace v. Housing Auth. of Burkesville (*In re* Pace) [45,440], 1548
Seales v. Diaz [43,992], 1331
Waite v. Housing Auth. of City of Newport [44,658], 614

> Adequate Notice of Suit

Quincy Hous. Auth. v. Cowart [44,473], 188

> Sueable Entities

Housing Auth. of Raleigh v. McCleain, 565
Prescott v. Philadelphia Hous. Auth., 287
Tyler v. Housing Auth. of Kansas City, 1573

Loss of Units

> Demolition

Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491], 184, 902
Resident Council of Allen Parkway Village v. HUD [44,608], 320
Tinsley v. Kemp [44,154], 1447

> Sale to Private Developer

Connelly v. Springfield Redevelopment Auth. [44,389], 66

Rent

> Assessment for Repairs

St. Clair County Hous. Auth. v. Turner [44,680], 618

> Computation

Bronston v. Kemp [45,131], 1330
Burton v. Housing Auth. of Morgantown [44,488], 184
Crane v. Kemp [44,576], 320
Flowers v. Smith, 1573
Letendre v. Housing Auth. of Woonsocket [44,369], 65

> Excess of Allowable Ceiling

Gonzalez v. St. Margaret's Hous. Dev. Fund, 990
Miles v. Metropolitan Dade County [45,016], 1027

> Excessive Rents

Burton v. Housing Auth. of Morgantown [44,488], 184
Derrick v. Pierce [44,516], 186
Miles v. Metropolitan Dade County [45,016], 1027

> Increases

»Due Process Hearing

Flowers v. Smith, 1573
Letendre v. Housing Auth. of Woonsocket [44,369], 65
Miles v. Metropolitan Dade County [45,016], 1027

Repairs

Connelly v. Housing Auth. of New Haven [45,226], 1332, 1448
Marino v. Smart [44,566], 322
Tenants Against Mismanagement v. Kemp [44,604], 319

> Assessment of Procedures

Hodge v. HUD [42,380], 85

> Defects Hazardous to Life, Health, and Safety

Tinsley v. Kemp [44,154], 1447
Illinois v. City of East St. Louis [44,585], 313

> Maintenance Charges

Hodge v. HUD [42,380], 85
Seales v. Diaz [43,992], 1331

Security

Summeries v. Chicago Hous. Auth. [45,004], 1027

> Security as Part of Warranty of Habitability

Tillis v. Housing Auth. of Atlanta, Ga. [45,437], 1560

Site Selection

> Administrative Challenges

Pearce v. Barry [44,997], 904

Utilities

Rodriguez v. Cuomo [44,539], 330

> Individual Metering

Deck v. Michael [44,594], 341

> Surcharge

Scott v. Hamlet Hous. Auth. [43,152], 745

> Utility Allowance

» Adequacy

Giles v. Housing Auth. of Frankfort [45,074], 1556
Scott v. Hamlet Hous. Auth. [43,152], 745

REDLINING

Houston v. City of Cocoa [44,272], 1445

Home Improvement Loans

Perez v. Bank of the W. [44,263], 596

Location of Bank Offices

Perez v. Bank of the W. [44,263], 596

REHABILITATION

Township of Bernards v. New Jersey Dep't of Community Affairs, 562

RESIDENTIAL HOTELS

Gillen v. Putnam County Dep't of Health [44,160], 321
Harrison v. Town of Old Saybrook [44,685], 611, 1555

Conversion

Connelly v. Springfield Redevelopment Auth. [44,389], 66

SECTION 8 HOUSING

Admissions

> Eligibility

» Prior Debts

Hill v. Chambers [44,294], 64, 1556

> Procedural Protections

» Reasons for Rejection

DuPont v. Somerville Hous. Auth. [45,381], 1446
Jackson v. Chicago Hous. Auth. [45,366], 1446

> Selection Procedures

Hill v. Chambers [44,294], 64, 1556
Jackson v. Chicago Hous. Auth. [45,366], 1446

Certification

Jackson v. Chicago Hous. Auth. [45,366], 1446
Smith v. HUD [45,403], 1558

> Termination

Hill v. Chambers [44,294], 64, 1556
Milliner v. Pierce [44,425], 183
Nabors v. Housing Auth. of Milwaukee [45,023], 1030
Rojas v. Freda [45,090], 1027
Tapley v. Akron Metro. Hous. Auth. [44,579], 323
Trent, *In re* [45,122], 1032
Wensil v. Ritchie [45,087], 1029
Wilson v. Kemp [45,444], 1556

Discrimination

DuPont v. Somerville Hous. Auth. [45,381], 1446

Evictions

Bernashe v. Comtois [44,588], 323
Marino v. Smart [44,566], 322
McNamara v. Bevis [44,471], 187
Smolak, *In re* [45,293], 1450

> Defenses

Edwards v. Fenn, 991
Richardson v. Vanderwilt [45,374], 1449
Travieso v. Marshall [45,404], 1431

> Due Process

Americk v. Carroll [44,888], 747
Blackwell v. Lund [45,002], 900

> Good Cause

Chavez v. Hernandez [44,321], 66
Harris v. Seattle Hous. Auth. [44,987], 1030
Hi-Valley Dev. Corp. v. Ulbrich [44,996], 903
Tapley v. Akron Metro. Hous. Auth. [44,579], 323
Trent, *In re* [45,122], 1032

> Hearings

Walsh v. Clare Ltd. Dividend Hous. Ass'n [45,369], 1446

> Notices

Americk v. Carroll [44,888], 747
Bayview Found., Inc. v. Green [44,730], 620
Charter Fed. Sav. & Loan v. Rogalski [44,737], 616
Chavez v. Hernandez [44,321], 66
Hi-Valley Dev. Corp. v. Ulbrich [44,996], 903
Richardson v. Vanderwilt [45,374], 1449
Walsh v. Clare Ltd. Dividend Hous. Ass'n [45,369], 1446

Excess Charges-Late Charges

Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555

Grievance Procedures

Chandronnet v. Sullivan [45,401], 1447
Head v. Jellico Hous. Auth. [42,444], 183
Tulare County Hous. Auth., *In re* [44,552], 324
Wensil v. Ritchie [45,087], 1029
Wilson v. Kemp [45,444], 1556

Leases

> Landlord's Refusal to Renew

Chandronnet v. Sullivan [45,401], 1447
McNamara v. Bevis [44,471], 187

» Good Cause

Trent, *In re* [45,122], 1032

> Termination

Bayview Found., Inc. v. Green [44,730], 620
Chandronnet v. Sullivan [45,401], 1447
Charter Fed. Sav. & Loan v. Rogalski [44,737], 616
Gillman v. Housing Auth. of Mingo County [45,411], 1559
Milliner v. Pierce [44,425], 183
Nelson v. HUD [44,538], 319
Rojas v. Freda [45,090], 1027
Smolak, *In re* [45,293], 1450
Trent, *In re* [45,122], 1032

Local Housing Authority

> Functions

Blackwell v. Lund [45,002], 900

> Sueable Entities

Prescott v. Philadelphia Hous. Auth., 287

Loss of Units

Americk v. Carroll [44,888], 747

> Landlord's Refusal to Renew Contract

Nelson v. HUD [44,538], 319

> Sale to Private Developer

Gilmerr v. Pierce [41,783], 63

Management

Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555

> Rent Collection Practices

Blackwell v. Lund [45,002], 900

Rent

Bernashe v. Comtois [44,588], 323
Nelson v. HUD [44,538], 319
Wilson v. Kemp [45,444], 1556

> Computation

Betts v. Kemp [35,058], 187
Bronston v. Kemp [45,131], 1330
Crane v. Kemp [44,576], 320
Gillman v. Housing Auth. of Mingo County [45,411], 1559
Head v. Jellico Hous. Auth. [42,444], 183
Martin v. East Side Hous. Corp. [45,014], 1029
Sylvester v. HUD [44,792], 745
Turner v. Perales [41,234], 204

> Increases

Hi-Valley Dev. Corp. v. Ulbrich [44,996], 903
McNamara v. Bevis [44,471], 187

Repairs

Duncan v. Sabal Palms I Assocs. [44,209], 183, 1555
Smolak, *In re* [45,293], 1450
Tenants Against Mismanagement v. Kemp [44,604], 319

> Code Violations

»Inspection

Ayala v. Boston Hous. Auth., 565
Marino v. Smart [44,566], 322

> Defects Hazardous to Life, Health, and Safety

»Lead-Based Paint

Ayala v. Boston Hous. Auth., 565

Security

Tenants Against Mismanagement v. Kemp [44,604], 319

Tenant Organization and Participation

Country Village Tenant Ass'n v. Fairmount Heights Assocs. Ltd. Partnership [44,322], 64

Utilities

Rodriguez v. Cuomo [44,539], 330
Sylvester v. HUD [44,792], 745
Turner v. Perales [41,234], 204

SINGLE-ROOM OCCUPANCY HOTELS

Seawall Assocs. v. City of New York, 1379

SUBSIDIZED FARMWORKER HOUSING PROJECTS

Edwards v. Johnston County Health Dep't, 1380

ILLEGITIMATE CHILDREN

See also DEPENDENT AND NEGLECTED CHILDREN, DOMESTIC RELATIONS

ADOPTIONS

Consent

McAda, *In re*, 1471
Necaise, *In re* [44,520], 179, 595

> Unwed Parents

Mississippi Band of Choctaw Indians v. Holyfield, 218

Notice

Necaise, *In re* [44,520], 179, 595

BIRTH CERTIFICATES

Necaise, *In re* [44,520], 179, 595

CHILD SUPPORT

Adjudication of Issue

Department of Pub. Aid v. Newburg, 561
Gerhardt v. Estate of Moore, 987

Parents' Responsibilities

Arizona v. Anonymous, 214

> Reimbursement for AFDC Benefits

New Hampshire v. Dionne, 572

Paternity

B., T.L., *In re*, 561
Davis, Custody of, *In re*, 215
Department of Revenue v. Jarvenpaa, 214

FATHER'S RIGHTS

Klawitter v. Crawford, 1375
Necaise, *In re* [44,520], 179, 595

Eligibility for AFDC

Sandry v. Rubin [44,391], 78

Termination

Wyoming *ex rel.* L. v. P. [44,548], 308

> Consent

B., A., *In re*, 992

INHERITANCE RIGHTS

Proof of Paternity

Alexander v. Alexander, 562
Johnson, *In re* [44,918], 757

PATERNITY

Indiana *ex rel.* Vt. Dep't of Social Welfare v. Cargile, 561

Acknowledgment

Davis, Custody of, *In re*, 215
Gerhardt v. Estate of Moore, 987
Luke v. Bowen [43,701], 335, 908
Shelby v. George, 987

Action by Child

Johnson v. Hunter, 1466
Simcox v. Simcox, 1466

Admission by Conduct

Luke v. Bowen [43,701], 335, 908

Appeal and Review

Shelby v. George, 987
Simcox v. Simcox, 1466

Blood Tests

Guillory v. Fuselier, 1375
Jones v. Crawford, 1467
Louisiana *ex rel.* Braden v. Nash, 1467
T. v. T. [45,248], 1315, 1440

> Father's Rights

Miller v. Cowart, 1375

Evidence

Alexander v. Alexander, 562
Cochran v. Wallace, 988
Ewing v. Douglas [45,271], 1309
Guillory v. Fuselier, 1375
Illinois *ex rel.* Kelly v. Pasko, 987
Jones v. Crawford, 1467
Louisiana *ex rel.* Braden v. Nash, 1467

Father's Standing

H., Michael v. Gerald D., 561
L., R.T., *In re*, 1466

Hearings

Ross, Marriage of, *In re*, 1571
Shelby v. George, 987

Judicial Findings

B., T.L., *In re*, 561
Ewing v. Douglas [45,271], 1309
Johnson v. Hunter, 1466

Jurisdiction of Proceedings

Cochran v. Wallace, 988
Department of Pub. Aid v. Newburg, 561
Jackson v. Bowker [44,448], 195
Vermont Dep't of Social Welfare *ex rel.* Packard v. Cargile, 1466

Right to Counsel

Clark v. Sarver [44,618], 311

> Indigents

Maine Dep't of Human Servs. v. Tarvers [43,952], 594

Right to Jury Trial

Department of Revenue v. Jarvenpaa, 214

Standard of Proof

Guillory v. Fuselier, 1375

> Birth Certificates

Garcia v. Sullivan, 714

Statute of Limitations

Illinois *ex rel.* Kelly v. Pasko, 987
Klawitter v. Crawford, 1375

PRESUMPTION OF LEGITIMACY

L., R.T., *In re*, 1466

Mother Married at Child's Birth

H., Michael v. Gerald D., 561
T. v. T. [45,248], 1315, 1440

SOCIAL SECURITY

Baker v. Sullivan, 995

Deceased Wage Earner

Johnson, *In re* [44,918], 757
Wharton v. Bowen, 715

Survivors' Benefits

McDowell v. Bowen [44,297], 73

> Acknowledgment of Child

Garcia v. Sullivan, 714
Luke v. Bowen [43,701], 335, 908

> State Intestate Succession Laws

Luke v. Bowen [43,701], 335, 908
Smith v. Bowen [44,684], 627

UNIFORM PARENTAGE ACT

Ross, Marriage of, *In re*, 1571

VISITATION RIGHTS

Klawitter v. Crawford, 1375

IMMIGRATION

See also ALIENS, MIGRANTS

ALIEN REGISTRATION

Proof of Citizenship

Thornburgh, *In re*, 565

ARRESTS

Ramirez v. Webb [31,766], 904

ASCERTAINMENT OF STATUS

American Friends Serv. Comm. v. Thornburgh, 1379
Lopez v. Davidian [44,067], 324, 1560
Montemayor v. Moomaw [45,114], 1033

Detainment of Unlawful Residents or Citizens

Hernandez v. Cremer [44,584], 324
Ramirez v. Webb [31,766], 904

Proof of Alienage

Hernandez v. Cremer [44,584], 324
Thornburgh, *In re*, 565

BORDER PATROL AGENTS

Ramirez v. Webb [31,766], 904

CLASSIFICATION

Ayuda, Inc. v. Thornburgh, 991
Immigration Assistance Project v. INS, 566, 1379

DEPORTATION

United States v. Santos-Vanegas, 991

Conviction

Hernandez-Garza v. INS, 1379

Nonresident Alien Spouse

Azizi v. Thornburgh, 1379
Minatsis v. Brown, 991

Permanent Residents

Gameros-Hernandez v. INS, 1379
Hernandez-Garza v. INS, 1379
Ortiz-Tejeda, *In re* [45,007], 1044

Political Asylum

Menendez, *In re* [45,242], 1335
Pierre, *In re* [44,872], 748

Suspension of Deportation

Pierre, *In re* [44,872], 748

DETENTION

Hernandez v. Cremer [44,584], 324
Montemayor v. Moomaw [45,114], 1033
Pearl Meadows Mushroom Farm, Inc. v. Nelson, 1470

DISCRIMINATION

EEOC v. Switching Sys. Div., Rockwell Int'l [44,747], 596

ILLEGAL IMMIGRATION CARD CHECKS

Montemayor v. Moomaw [45,114], 1033
Pearl Meadows Mushroom Farm, Inc. v. Nelson, 1470

LEGALIZATION

Ayuda, Inc. v. Thornburgh, 991
California Rural Legal Assistance v. LSC [44,700], 582
Immigration Assistance Project v. INS, 566, 1379
Proyecto San Pablo v. INS [44,970], 904
Quezada-Gomez v. INS, 1471
Zambrano v. INS [43,351], 747, 1560

Seasonal Agricultural Workers

Haitian Refugee Center, Inc. v. Nelson, 559
Lopez v. Davidian [44,067], 324, 1560
Northwest Forest Workers v. Yeutter [42,653], 67
United Farm Workers of Am. v. INS [42,723], 325

NATURALIZATION

Ayuda, Inc. v. Thornburgh, 991

REFUGEES

Detention

Pierre, *In re* [44,872], 748

Imprisonment

Pierre, *In re* [44,872], 748

VISAS

City of New York v. Baker III, 991

Capture

Pierre, *In re* [44,872], 748

INCOME TAX

See TAXES

IN FORMA PAUPERIS

APPEALS

Attorney Representation

DiAngelo v. Illinois Dep't of Pub. Aid, 1570

Bonds

Brassard v. Kuzmik [44,703], 622

COURT COSTS

James v. Quinlan, 219, 1373
Lamarre v. Cipolla [44,745], 588
Tedder v. Odel, 1464

Filing Fees

See Moua v. Goodrich [45,219], 1352

> Civil Actions

Green v. Green, 986

DIVORCE

Green v. Green, 986

ELIGIBILITY

Green v. Green, 986

FRIVOLOUS CLAIMS

Baptist v. Lane, 568
Bunch v. El Paso Hous. Auth. [45,257], 1331

Good Faith

Neitzke v. Williams, 284

TRANSCRIPTS

Fullan v. Commissioner of Corrections, 1570

INDIANS

See NATIVE AMERICANS

INSURANCE

AUTOMOBILES

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs, 1465
Motley v. Williams (*In re* Motley) [45,231], 1306

COST-ESTIMATION

Griffin v. American Defender Life Ins. [44,823], 1438

CREDIT LIFE AND DISABILITY

Hawkins v. Thorp Credit & Thrift Co., 986
Priest v. Canada Life Assurance Co., 1374

Costs

Griffin v. American Defender Life Ins. [44,823], 1438

Discrimination

> Sex

Carruthers v. Prudential Ins. Co. [39,669], 593

HEALTH

Colonial Penn Life Ins. Co., *In re* [44,451], 307
Davis v. G&S Assocs. [45,443], 1554
Evans v. Travelers Cos. [44,677], 592, 730

LICENSE TO SELL

Colonial Penn Life Ins. Co., *In re* [44,451], 307

LIFE

Carruthers v. Prudential Ins. Co. [39,669], 593
Colonial Penn Life Ins. Co., *In re* [44,451], 307
Hawkins v. Thorp Credit & Thrift Co., 986

Misrepresentation

Jones v. Credithrift of Am. [45,081], 1310

PREMIUM FINANCING

Stansberry v. Thorp Loan & Thrift [44,609], 306

RATES

Griffin v. American Defender Life Ins. [44,823], 1438

RENEWALS

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs, 1465

TERMINATION

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs, 1465
Davis v. G&S Assocs. [45,443], 1554
Evans v. Travelers Cos. [44,677], 592, 730

JAILS

See PRISONS

JURIES

ADVISORY JURY

Bereda v. Pickering Creek Indus. Park, Inc., 82

DAMAGE AWARD

Reviewability

Bereda v. Pickering Creek Indus. Park, Inc., 82

INSTRUCTIONS

Bereda v. Pickering Creek Indus. Park, Inc., 82
Torner v. Reagen, 559

JURY TRIAL

Right to

Lamarre v. Cipolla [44,745], 588
Meadow Park Garden Assocs. v. Canley, 711
North School Congregate Hous. v. Merrithew [43,955], 191, 622

NEW TRIAL

Wiggins v. Maryland [44,574], 307

JUVENILE COURTS

CHARGES

Bates v. Reynolds, 991

COMMITMENT

B., A., *In re*, 1574

DELINQUENCY ADJUDICATION

Office of Pub. Aid v. Superior Court, 1471

DUE PROCESS

Office of Pub. Aid v. Superior Court, 1471

JURISDICTION

H., J., *In re*, 566
R., *In re* [44,301], 67

Age as Factor

Cox v. Court of Common Pleas, 566

RIGHT TO COUNSEL

Lindon v. Lindon [45,478], 1547

JUVENILE INSTITUTIONS

CONFINEMENT

Conditions

C. v. Hughes [44,421], 189
Facilities Review Panel v. Greiner, 1471
J., E. v. Hamilton County, Ohio, 287

County Jail

James v. Wilkinson [44,782], 621

Period

C. v. Hughes [44,421], 189

CUSTODY AND CONTROL OF YOUTHS BEYOND 18

Facilities Review Panel v. Greiner, 1471

GRIEVANCE PROCEDURES

C. v. Hughes [44,421], 189

MEDICAL CARE

Psychiatric Treatment

C. v. Hughes [44,421], 189

PLACEMENT

Least Restrictive Alternative

R., *In re* [44,301], 67

Secure Facility

James v. Wilkinson [44,782], 621

SOLITARY CONFINEMENT

Cruel and Unusual Punishment

C. v. Hughes [44,421], 189

JUVENILES

See also ADOPTION, DEPENDENT AND NEGLECTED CHILDREN, ILLEGITIMATE CHILDREN

H. v. Department of Health & Rehabilitative Servs. [44,724], 589

CONFINEMENT

B., A., *In re*, 1574
C. v. Hughes [44,421], 189
J., E. v. Hamilton County, Ohio, 287
James v. Wilkinson [44,782], 621
P. v. Johnson [43,990], 1034

HABEAS CORPUS

B., A., *In re*, 1574

PARENTAL RIGHTS AND OBLIGATIONS

Baltimore City Dep't of Social Servs. v. Bouknight [45,027], 1033
Copas v. Cabinet for Human Resources [44,382], 67
Dull v. Delaware County Dep't of Pub. Welfare [43,740], 189
University of S. Ala., *Ex parte*, 707
Wyoming *ex rel.* L. v. P. [44,548], 308

RECORDS

Henne v. Wright, 711

RUNAWAYS

Non-Delinquents

James v. Wilkinson [44,782], 621

TREATMENT

University of S. Ala., *Ex parte*, 707

Right to Treatment

R., *In re* [44,301], 67

LANDLORD-TENANT

See HOUSING

LANGUAGE DISCRIMINATION

ADMINISTRATIVE HEARINGS

Interpreter Services

Ramirez v. Board of Review of Dep't of Employment Sec. [44,449], 203

AGENCY STAFF

Quinones v. Suter [42,552], 736

BILINGUAL FORMS

Quinones v. Suter [42,552], 736

BILINGUAL-BICULTURAL EDUCATION

P. v. Berkeley Unified School Dist., 1467

NOTICES

Heredia v. Illinois Dep't of Pub. Aid [44,973], 899

PUBLIC BENEFITS

Interpreter Services

Quinones v. Suter [42,552], 736

LEGAL SERVICES

See also ATTORNEY FEES, ATTORNEYS

CLIENTS

Eligibility

California Legal Servs. Trust Fund, *In re* [44,637], 301
California Rural Legal Assistance v. LSC [44,700], 582

Haines v. Athey [44,077], 326
National Center for Youth Law v. LSC [45,500], 1546

Funds

California Legal Servs. Trust Fund, *In re* [44,637], 301
National Center for Youth Law v. LSC [45,500], 1546

COLLECTIVE BARGAINING

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

CONFLICT OF INTEREST

Rehmann v. Maynard, 82

DELIVERY OF SERVICES

Legal Aid Soc'y of Charleston v. West Virginia Comm'n on Aging [43,941], 1038
Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

Private Bar

Jewell v. Maynard, 1373

FEE-GENERATING CASES

Haines v. Athey [44,077], 326

FUNDING

Appalachian Research & Defense Fund of Ky. v. Austin [43,940], 1007
California Legal Servs. Trust Fund, *In re* [44,637], 301
National Center for Youth Law v. LSC [45,500], 1546
Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

Termination

Food Research & Action Center, *In re* [45,075], 1009
Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

JUDICIAL REVIEW OF LEGAL SERVICES CORPORATION DECISIONS

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008
National Center for Youth Law v. LSC [45,500], 1546
Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

LOBBYING ACTIVITIES

Food Research & Action Center, *In re* [45,075], 1009

REGULATIONS

Appalachian Research & Defense Fund of Ky. v. Austin [43,940], 1007
California Legal Servs. Trust Fund, *In re* [44,637], 301
California Rural Legal Assistance v. LSC [44,700], 582
National Center for Youth Law v. LSC [45,500], 1546
Rehmann v. Maynard, 82

RURAL PROJECTS

Texas Rural Legal Aid v. Legal Servs. Corp. [45,430], 1431

TITLE XX INFORMATION GATHERING

J. v. Jones [31,293], 1308

UNIONS

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

LIENS

DAMAGES

Detention of Property

Moore v. Republic Moving & Storage [44,427], 191

MATERIALMEN'S

Rivas v. Goldome Credit [45,120], 1013

MECHANIC'S

Rivas v. Goldome Credit [45,120], 1013

WAREHOUSEMEN'S

Moore v. Republic Moving & Storage [44,427], 191

LOW-INCOME ENERGY ASSISTANCE PROGRAMS

See ENERGY

MEDICAID

ADEQUACY OF BENEFITS

Catanzano v. Richardson [45,058], 1021, 1324

ADMINISTRATION

Immunity

Illinois Health Care Ass'n v. Suter, 1378

Judicial Review

Alabama Medicaid Agency v. Peoples, 1374

Policymaking Decisions

Kuppersmith v. Perales [44,986], 900

State Programs

Coleman v. Barry [44,388], 62, 899
Cone v. Babcock [44,615], 316, 1024
Duncan v. Perales [40,991], 317, 743
Matthews v. Ibarra, 217
Sneede v. Kizer [44,687], 607, 1553
Texas Health Care Ass'n v. Bowen [44,361], 62

> Calculation of Participation by Recipient

Garner v. Secretary, Cabinet for Human Resources [44,367], 63, 318

> Notice of Action Taken

Frank v. Kizer [44,157], 315
Kuppersmith v. Perales [44,986], 900
Ortiz v. Eichler [35,980], 1350
Poling, *In re* [45,287], 1328, 1445

APPLICATIONS

Denials

Armstrong v. Palmer [42,033], 738
Twomey v. Indiana Dep't of Pub. Welfare [44,674], 607

Procedures

Alexander v. Flaherty [13,475], 764, 1458
Armstrong v. Palmer [42,033], 738
Cook v. Barry [44,249], 1021
Heredia v. Illinois Dep't of Pub. Aid [44,973], 899
Johnson v. Babcock [44,712], 763
Wistedt v. Florida Dep't of Health & Rehabilitative Servs., 1470

AVAILABLE INCOME

Community Property

Rindahl v. St. Louis County Welfare Bd., 565

Computation

Hankerson v. Coler [44,899], 739
Indiana Dep't of Pub. Welfare v. Foster [45,024], 1023
Mowbray v. Kozlowski [45,170], 1324, 1573
Sneede v. Kizer [44,687], 607, 1553

Deeming

Cazier v. Bowen [44,766], 607
Sneede v. Kizer [44,687], 607, 1553

> Noninstitutionalized Spouse

Rindahl v. St. Louis County Welfare Bd., 565

Income Disregards

Turner v. Kizer [44,359], 62

Medical Care Costs

Connor v. Indiana Dep't of Pub. Welfare [44,437], 181
Glover v. Johnson [44,864], 740
Walker v. Concannon [45,198], 1324

Property Investments

Twomey v. Indiana Dep't of Pub. Welfare [44,674], 607

Spend Down

Smith v. Concannon [45,037], 1021
Walker v. Concannon [45,198], 1324

> Excess Resources

Darling v. Bowen [42,592], 1019

Hession v. Illinois Dep't of Pub. Aid [42,987], 1470
Indiana Dep't of Pub. Welfare v. Foster [45,024], 1023
Westmiller v. Sullivan [42,721], 1443

> Method of Determining

Connor v. Indiana Dep't of Pub. Welfare [44,437], 181
D., *In re* [44,567], 318
Hession v. Illinois Dep't of Pub. Aid [42,987], 1470
Poling, *In re* [45,287], 1328, 1445

Transfer of Assets

J., *In re* [45,334], 1444
Wyatt, *In re* [45,216], 1327

> Presumptions

R., *In re* [44,628], 609

Trust Funds

Hatcher v. Department of Health & Rehabilitative Servs., 990
Kline v. Utah Dep't of Health, 990
Wasson v. Willmarth [44,526], 316

CATASTROPHIC MEDICAL PROGRAMS

Coleman v. Barry [44,388], 62, 899
Cone v. Babcock [44,615], 316, 1024

COST CONTAINMENT

Garner v. Secretary, Cabinet for Human Resources [44,367], 63, 318

DENTAL SERVICES

Medically Necessary

Thielking v. Mercy Care Plan [45,389], 1444

> Orthodontial

Brown v. Kizer [43,729], 1443

DRUGS

M. v. Watson [44,568], 318

Reimbursement

Weaver v. Reagen [44,533], 85, 1322

EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT PROGRAMS

Guidelines

Schenck v. Office of the Secretary of La. Dep't of Health & Human Resources [45,179], 1325

ELIGIBILITY

Armstrong v. Palmer [42,033], 738
Cone v. Babcock [44,615], 316, 1024
Duncan v. Perales [40,991], 317, 743
Flores v. Concannon [44,141], 740
Guidice v. Jackson [44,883], 765, 1458
Hession v. Illinois Dep't of Pub. Aid [42,987], 1470
Hunt v. Kizer [44,761], 603, 1020, 1442
Kline v. Utah Dep't of Health, 990
Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647], 174, 726
Meusberger v. Palmer [44,898], 740, 1019
Mowbray v. Kozlowski [45,170], 1324, 1573
Rindahl v. St. Louis County Welfare Bd., 565
Rowling v. Soule [44,971], 898
Ruiz v. Kizer [43,863], 1323
Schneider, *In re* [44,739], 609
Twomey v. Indiana Dep't of Pub. Welfare [44,674], 607

Timely Determination

See Moua v. Goodrich [45,219], 1352
Snow v. Lucas County Dep't of Human Servs. [44,698], 583

FEDERAL REGULATIONS

D., *In re* [44,567], 318

FINANCIAL ELIGIBILITY

Coleman v. Barry [44,388], 62, 899
Hatcher v. Department of Health & Rehabilitative Servs., 990

Transfer of Assets

E., *In re* [44,627], 609
R., *In re* [44,628], 609
Twomey v. Indiana Dep't of Pub. Welfare [44,674], 607
Wyatt, *In re* [45,216], 1327

HEARINGS

Oglesby v. Barry [45,472], 1553

Evidence

Wistedt v. Florida Dep't of Health & Rehabilitative Servs., 1470

Medical Testimony

Thatch v. Illinois Dep't of Pub. Aid [44,860], 742

Notice and Hearing Requirements

Cook v. Barry [44,249], 1021
Torner v. Reagen, 559
Zellweger v. Department of Social Servs., 1470

Notice of Suspension

> Timely Appeal

Frank v. Kizer [44,157], 315

HOSPITALS

Reimbursement

> Collection Action Against Recipient

Decatur Memorial Hosp. v. Cowick [45,196], 1326
Williamson County Medical Center v. Dixon [45,129], 1326

INTERMEDIATE CARE FACILITIES

Sonnenblick, *In re* [45,123], 1036

LIMITATIONS ON SERVICE

Beckwith v. Kizer [43,794], 315
Garner v. Secretary, Cabinet for Human Resources [44,367], 63, 318
H., *In re* [44,450], 182
Kuppersmith v. Perales [44,986], 900
Matthews v. Ibarra, 217
Meusberger v. Palmer [44,898], 740, 1019
Schenck v. Office of the Secretary of La. Dep't of Health & Human Resources [45,179], 1325
Thatch v. Illinois Dep't of Pub. Aid [44,860], 742
Warr v. Horsley, 216

MAINTENANCE LEVELS

Rindahl v. St. Louis County Welfare Bd., 565

MEDICALLY NECESSARY PROCEDURE

Garner v. Secretary, Cabinet for Human Resources [44,367], 63, 318
H., *In re* [44,450], 182
Meusberger v. Palmer [44,898], 740, 1019
Thielking v. Mercy Care Plan [45,389], 1444

MENTALLY ILL PERSONS

Texas Health Care Ass'n v. Bowen [44,361], 62

NURSING HOMES

Additional Payments

United States v. Downtown Jewish Home for the Aged [45,082], 1022
VOA Autumnwood Care Center v. Shiff, 1378

Admissions

Devine v. Maryhaven, Inc. [44,454], 1023
Sonnenblick, *In re* [45,123], 1036
United States v. Downtown Jewish Home for the Aged [45,082], 1022

Decertification

Walker v. Colorado Dep't of Social Servs. [44,919], 742

Eligibility

Kline v. Utah Dep't of Health, 990

Inadequate Payments

Glover v. Johnson [44,864], 740
VOA Autumnwood Care Center v. Shiff, 1378

Patients' Rights

Cook v. Barry [44,249], 1021
Hudman v. Kizer [44,915], 741

Policies and Regulations

Heritage House Partnership v. Frazier [45,080], 1024

Private Rooms

VOA Autumnwood Care Center v. Shiff, 1378

Reimbursement

Washington Hosp. v. White, 1464

Relative Responsibility

Heritage House Partnership v. Frazier [45,080], 1024

State Regulation

Texas Health Care Ass'n v. Bowen [44,361], 62

State Reimbursement

Devine v. Maryhaven, Inc. [44,454], 1023
Glover v. Johnson [44,864], 740

Termination

Walker v. Colorado Dep't of Social Servs. [44,919], 742

> Due Process

Meyer v. Colorado Found. for Medical Care [44,659], 582

Transfers

> Due Process

»Hearings

Hudman v. Kizer [44,915], 741

»Notices

Hudman v. Kizer [44,915], 741

> Transfer Trauma

Hudman v. Kizer [44,915], 741

OPTIONAL SERVICES

Schenck v. Office of the Secretary of La. Dep't of Health & Human Resources [45,179], 1325
Warr v. Horsley, 216

Medical Equipment

Thatch v. Illinois Dep't of Pub. Aid [44,860], 742

PRIOR AUTHORIZATION

H., *In re* [44,450], 182

PRIVATE DUTY NURSING CARE

Beckwith v. Kizer [43,794], 315

PROMPT PROCESSING

Hearings

Zellweger v. Department of Social Servs., 1470

RECORDS

Schneider, *In re* [44,739], 609
Wistedt v. Florida Dep't of Health & Rehabilitative Servs., 1470

REDUCTION

Notice and Hearing Requirements

Frank v. Kizer [44,157], 315
Garner v. Secretary, Cabinet for Human Resources [44,367], 63, 318

REIMBURSEMENT

H., *In re* [44,450], 182

RESIDENCY REQUIREMENTS

Migrants

Flores v. Concannon [44,141], 740

SKILLED NURSING CARE

Catanzano v. Richardson [45,058], 1021, 1324

SSI RECIPIENTS

Eligibility

Darling v. Bowen [42,592], 1019

STATE ELIGIBILITY REQUIREMENTS

Coleman v. Barry [44,388], 62, 899
Guidice v. Jackson [44,883], 765, 1458
Morales, *In re* [44,965], 900
Sneede v. Kizer [44,687], 607, 1553

TERMINATION

Hatcher v. Department of Health & Rehabilitative Servs., 990
Morales, *In re* [44,965], 900
Schenck v. Office of the Secretary of La. Dep't of Health & Human Resources [45,179], 1325
Schneider, *In re* [44,739], 609

Notice

Frank v. Kizer [44,157], 315
Rowling v. Soule [44,971], 898
Zellweger v. Department of Social Servs., 1470

TRANSFER OF ASSETS

Hatcher v. Department of Health & Rehabilitative Servs., 990
J., *In re* [45,334], 1444
Wyatt, *In re* [45,216], 1327

WRONGFUL WITHHOLDING OF BENEFITS

Sneede v. Kizer [44,687], 607, 1553

MEDICAL ASSISTANCE PROGRAMS

ACCESS TO MEDICAL SERVICES

Kinlaw v. California [42,872], 741
McKinzie v. Board of Supervisors of Placer County [43,576], 316

ADMINISTRATION

Fedderly v. Wisconsin Dep't of Health & Social Servs. [44,731], 608
McKinzie v. Board of Supervisors of Placer County [43,576], 316

AID TO MEDICALLY NEEDY

Heredia v. Illinois Dep't of Pub. Aid [44,973], 899
Kinlaw v. California [42,872], 741
Walker v. Concannon [45,198], 1324

Eligibility

C., *In re* [44,484], 182
Duncan v. Perales [40,991], 317, 743
Hankerson v. Coler [44,899], 739
Hunt v. Kizer [44,761], 603, 1020, 1442
Reyes v. Canyon County [45,115], 1022
Zeigler v. Kirschner [43,398], 1470

APPLICATIONS

Denials

Fedderly v. Wisconsin Dep't of Health & Social Servs. [44,731], 608
Hankerson v. Coler [44,899], 739
Jennings v. Dunning, 711

Procedures

Heredia v. Illinois Dep't of Pub. Aid [44,973], 899
Jennings v. Dunning, 711
Zeigler v. Kirschner [43,398], 1470

AVAILABLE INCOME

Computation

B., *In re* [45,001], 915
Jennings v. Dunning, 711
Turner v. Kizer [44,359], 62
Wasson v. Willmarth [44,526], 316

Excess Income

Hankerson v. Coler [44,899], 739
S., C., *In re* [44,961], 1328

Excess Resources

Behnke v. Department of Health & Social Servs., 85
C., *In re* [44,484], 182
Mowbray v. Kozlowski [45,170], 1324, 1573
Ponti v. Kizer [45,362], 1444, 1554
Reyes v. Canyon County [45,115], 1022
Turner v. Kizer [44,359], 62
Westmiller v. Sullivan [42,721], 1443

Transfer of Assets

> Exempt Homestead

Kocher v. Wisconsin Dep't of Health & Social Servs., 1470

CUTBACKS

Kinlaw v. California [42,872], 741
McKinzie v. Board of Supervisors of Placer County [43,576], 316

DENIAL OF BENEFITS

Behnke v. Department of Health & Social Servs., 85
Fedderly v. Wisconsin Dep't of Health & Social Servs. [44,731], 608

DENTAL SERVICES

Jackson v. Stockdale [43,106], 1554

ELIGIBILITY

Morales, *In re* [44,965], 900
S., C., *In re* [44,961], 1328

Due Process

Hankerson v. Coler [44,899], 739
Vorster v. Sullivan [37,838], 564, 1020

Sale of Exempt Real Estate

Pennsylvania Dep't of Pub. Welfare v. Bean, 570

HEARINGS

Medical Review Team Reports

Walker v. Colorado Dep't of Social Servs. [44,919], 742

Review of Hearing Decision

Falcon v. Williams County Social Serv. Bd., 85
Reyes v. Canyon County [45,115], 1022

HOME HEALTH CARE

Beckwith v. Kizer [43,794], 315
Eva, *In re* [45,292], 1327
Mansfield v. Ibarra [45,274], 1325

MEDI-CAL

Brown v. Kizer [43,729], 1443
Jackson v. Stockdale [43,106], 1554
Kinlaw v. California [42,872], 741

Available Income

Turner v. Kizer [44,359], 62

> Spend Down

Hunt v. Kizer [44,761], 603, 1020, 1442
Ponti v. Kizer [45,362], 1444, 1554

> Transfer of Assets

E., *In re* [44,874], 742

Eligibility

E., *In re* [44,874], 742
Hunt v. Kizer [44,761], 603, 1020, 1442
Ruiz v. Kizer [43,863], 1323

Termination

Frank v. Kizer [44,157], 315

SPEND DOWN

D., *In re* [44,567], 318
Poling, *In re* [45,287], 1328, 1445
Ponti v. Kizer [45,362], 1444, 1554
Walker v. Concannon [45,198], 1324
Westmiller v. Sullivan [42,721], 1443

TERMINATION

Falcon v. Williams County Social Serv. Bd., 85
Kocher v. Wisconsin Dep't of Health & Social Servs., 1470
Morales, *In re* [44,965], 900

MEDICARE

Cone v. Babcock [44,615], 316, 1024

APPEALS

Procedures

A., E., *In re* [44,753], 608
Kitik v. Sullivan [43,942], 1323
Levy v. Bowen [43,624], 181, 1305
Sarrassat v. Sullivan [43,444], 604, 1020
Steeves v. Spencer [37,334], 739, 1007

Right to Dispute Claims Under $100

A., E., *In re* [44,753], 608
C., *In re* [44,534], 317

CERTIFIED BEDS

Del Pesco v. Sullivan [44,760], 604

ELIGIBILITY

Coleman v. Barry [44,388], 62, 899
Eva, *In re* [45,292], 1327
Skelley v. Sullivan [44,371], 61, 604

EXTENDED CARE SERVICES

Noncertified Beds

Del Pesco v. Sullivan [44,760], 604
Promulgation of a Regulation Requiring Full Medicare Certification of Participating Skilled Nursing Facilities, *In re* [44,457], 1026

Physical Therapy

In-Home Health Servs., *In re* [43,334], 183, 1328
Rizzi v. Bowen [45,070], 1025

Skilled Nursing Care

H., *In re* [45,056], 1025
In-Home Health Servs., *In re* [43,334], 183, 1328
Phearsdorf v. Secretary of HHS [42,730], 1442
Sarrassat v. Sullivan [43,444], 604, 1020
Skelley v. Sullivan [44,371], 61, 604

HHS REGULATIONS

Goodman v. Sullivan, 1573
Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898
Promulgation of a Regulation Requiring Full Medicare Certification of Participating Skilled Nursing Facilities, *In re* [44,457], 1026

Disputed Claims Under $100

C., *In re* [44,534], 317

HOSPITAL SERVICES

Owens v. Nacogdoches County Hosp. Dist. [45,201], 1324

Inpatient Hospital Care

> Coverage Limitations

Doe, *In re* [44,759], 610
In-Home Health Servs., *In re* [43,334], 183, 1328

> Rehabilitative Services

Hooper v. Sullivan [28,898], 739

INSURANCE

Cox v. Michigan Ins. Bureau [44,956], 1026
Hungerford v. Michigan Ins. Bureau [44,957], 1026
Rimback v. Michigan Ins. Bureau [44,958], 1026

NURSING HOMES

Conditions

Gray Panthers Advocacy Comm. v. Sullivan [40,913], 61, 605, 898

Coverage

American Health Care Ass'n v. Sullivan [45,388], 1432
Del Pesco v. Sullivan [44,760], 604
Sarrassat v. Sullivan [43,444], 604, 1020
Skelley v. Sullivan [44,371], 61, 604

Transfer Rights

Promulgation of a Regulation Requiring Full Medicare Certification of Participating Skilled Nursing Facilities, *In re* [44,457], 1026

OPTICAL SERVICES

H., *In re* [45,056], 1025

PART A OF MEDICARE

Applications

Eva, *In re* [45,292], 1327

Home Health Care Services

A., N., *In re* [44,754], 608

An Advocate's Guide to Home Care for the Elderly

This useful manual provides advocates with basic knowledge necessary to represent persons seeking alternatives to institutional care. Copies may be ordered for $15 from the Clearinghouse (CH# 43,200) using the order form at the back of the index.

C., *In re* [44,534], 317
Eva, *In re* [45,292], 1327
H., *In re* [45,056], 1025
In-Home Health Servs., *In re* [43,334], 183, 1328
Rizzi v. Bowen [45,070], 1025

Inpatient Hospital Care

Doe, *In re* [44,759], 610
Phearsdorf v. Secretary of HHS [42,730], 1442

Post-Hospital Extended Services

> Skilled Nursing Facility

Phearsdorf v. Secretary of HHS [42,730], 1442
Skelley v. Sullivan [44,371], 61, 604

PART B OF MEDICARE

Adjudicatory Proceedings

Texas Medical Ass'n v. Sullivan, 710

Appeals Process

Kitik v. Sullivan [43,942], 1323
Texas Medical Ass'n v. Sullivan, 710

Hearings

> Due Process

Kitik v. Sullivan [43,942], 1323

Limitations on Coverage and Payment

Goodman v. Sullivan, 1573
Rose, *In re* [44,772], 609
Vorster v. Sullivan [37,838], 564, 1020

Overpayments

Texas Medical Ass'n v. Sullivan, 710

Services Covered

Goodman v. Sullivan, 1573
Rose, *In re* [44,772], 609
Vorster v. Sullivan [37,838], 564, 1020

PHYSICAL THERAPY

In-Home Health Servs., *In re* [43,334], 183, 1328

RECOUPMENT

Steeves v. Spencer [37,334], 739, 1007

REIMBURSEMENT

Steeves v. Spencer [37,334], 739, 1007
Vorster v. Bowen [37,838], 564

MENTAL HEALTH

ACCESS TO COUNSEL

Mississippi Protection & Advocacy Sys. v. Cotten [45,186], 1338
Walters, *In re*, 712

COMMITMENT PROCEDURES

Civil Commitment

Colter v. Grant-Blackford Mental Health, 86

> Gravely Disabled Standards

Colorado *ex rel.* Bucholz, *In re*, 1380

Continued Hospitalization

Colter v. Grant-Blackford Mental Health, 86

Criminal Commitment

> Incompetent to Stand Trial

» Mental Evaluation

Mulgrew v. Pennsylvania Dep't of Pub. Welfare, 560

Involuntary Commitment

Lewis v. Griffin, 219

> Alternative Treatment

C., K. v. Wyoming, 566

> Burden of Proof

Shrader v. Granninger, 566

> Court Appointed Physician or Attorney

Walters, *In re*, 712

> Court Orders

C., K. v. Wyoming, 566

> Dangerousness

Hofmaster, *In re*, 86
Ingersoll, *In re*, 1380

> Expert Reports

Ingersoll, *In re*, 1380

> Hearings

» Representation by Counsel

Walters, *In re*, 712

> Proper Subject for Treatment

Ingersoll, *In re*, 1380

> Psychiatric Examinations

Stone, *In re*, 218

> Standard of Proof

Colorado *ex rel.* Bucholz, *In re*, 1380

DRUGS

Forced Medications

Hopkins v. Colorado, 566
United States v. Charters, 86

Involuntary Administration

Hopkins v. Colorado, 566
United States v. Charters, 86

GUARDIANSHIP

Pennsylvania Dep't of Pub. Welfare v. Bean, 570

Right to Counsel

Pate v. Bobo, 566

HABILITATION

City of Philadelphia v. Pennsylvania Dep't of Pub. Welfare [45,187], 1321
Strandell, *In re*, 992

HALFWAY HOMES

C., K. v. Wyoming, 566

LEAST RESTRICTIVE ALTERNATIVE

Community-Based Programs

Arnold v. Arizona Dep't of Health Servs., 992

> Mentally Retarded

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
City of Philadelphia v. Pennsylvania Dep't of Pub. Welfare [45,187], 1321
Lynch Community Homes, Appeal of, *In re*, 218

> Zoning

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329

Institutions

> Mentally Retarded

S. v. Flaherty [36,533], 750, 894
Sonnenblick, *In re* [45,123], 1036

MENTAL INSTITUTIONS

Access to Counsel

Doe v. Hogan [45,412], 1563
Mississippi Protection & Advocacy Sys. v. Cotten [45,186], 1338

Discrimination

Murphy v. Senior Servs. Div., 86

Inmates' Physical Safety

N. v. Kiley [45,368], 1452

Least Restrictive Alternative

N. v. Kiley [45,368], 1452
S. v. Flaherty [36,533], 750, 894
Sonnenblick, *In re* [45,123], 1036

Living Conditions

N. v. Kiley [45,368], 1452

Placement

Murphy v. Senior Servs. Div., 86

Staff Adequacy

N. v. Kiley [45,368], 1452

Standard of Care

Johnson v. Bradley [45,188], 1338

Visitation Rights

Mississippi Protection & Advocacy Sys. v. Cotten [45,186], 1338

PATIENTS' RIGHTS

C., K. v. Wyoming, 566
Doe v. Hogan [45,412], 1563
Johnson v. Bradley [45,188], 1338
N. v. Kiley [45,368], 1452

Right to Refuse Medication

Hopkins v. Colorado, 566

TREATMENT

Texas Health Care Ass'n v. Bowen [44,361], 62

Costs

> Liability

»Involuntarily Committed

Mulgrew v. Pennsylvania Dep't of Pub. Welfare, 560
Weychert v. Department of Pub. Welfare, 86

»State Reimbursement

Brinkman v. Rahm [41,131], 995

Informed Consent

Shrader v. Granninger, 566

Juveniles

N. v. Kiley [45,368], 1452

Medical Treatment

Shrader v. Granninger, 566

Right to Treatment

Arnold v. Arizona Dep't of Health Servs., 992

MIGRANTS

See also ALIENS

ARRESTS

Ramirez v. Webb [31,766], 904

EMPLOYMENT

Colon v. Casco, Inc., 1380
S.G. Borello & Sons v. Department of Indus. Relations [43,751], 193

Certification

Haitian Refugee Center, Inc. v. Nelson, 559

Conditions

Avalos v. K&D Farms [45,026], 1036
Velasquez v. Michigan Senate [44,686], 624

Discrimination

Rivera v. Miller [45,183], 1338

Fair Labor Standards Act

> Minimum Wages

Colunga v. Young [44,969], 906
Coronado v. Selkirk [44,942], 1339

> Violations

Coronado v. Selkirk [44,942], 1339
Gonzalez v. Puente, 218
Martinez v. Jacobson [45,355], 1452

Hiring Practices

Avalos v. K&D Farms [45,026], 1036

Wages

Morrison v. DOL, 992

> Adverse Wage Rate

AFL-CIO v. Dole, 1380
Frederick County Fruit Growers Ass'n v. McLaughlin, 218
NAACP v. McLaughlin [33,367], 218

> Back Wages

Colunga v. Young [44,969], 906
Frederick County Fruit Growers Ass'n v. McLaughlin, 218
Martinez v. Department of Indus., Labor & Human Relations [44,972], 906

> Deductions

Yeska v. Wisconsin [44,357], 70

> Unpaid Wages

Martinez v. Jacobson [45,355], 1452

FARM LABOR CONTRACTOR REGISTRATION ACT

Calderon v. Presidio Valley Farmers Ass'n, 86

HOUSING

Avalos v. K&D Farms [45,026], 1036

Substandard Housing

Coronado v. Selkirk [44,942], 1339
Edwards v. Johnston County Health Dep't, 1380
Martinez v. Jacobson [45,355], 1452

LABOR CAMPS

Access

McLaughlin v. Elsberry, Inc., 287

Field Sanitation

Velasquez v. Michigan Senate [44,686], 624

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

Barrett v. Adams Fruit Co., 218
Fletes v. John I. Hass, Inc. [44,720], 624

Counterclaims

Frederick County Fruit Growers Ass'n v. Dole, 566

Exemptions

Coronado v. Selkirk [44,942], 1339

Registration and Disclosure

Colunga v. Young [44,969], 906
Coronado v. Selkirk [44,942], 1339

Statutory Damages

Avalos v. K&D Farms [45,026], 1036
Colunga v. Young [44,969], 906
Frederick County Fruit Growers Ass'n v. Dole, 566

Violations

Colon v. Casco, Inc., 1380
Fenelon v. Talisman Sugar Corp. [45,442], 1549
Gonzalez v. Puente, 218
Martinez v. Jacobson [45,355], 1452
McLaughlin v. Elsberry, Inc., 287

OCCUPATIONAL SAFETY

Fletes v. John I. Hass, Inc. [44,720], 624

Damages Action

Barrett v. Adams Fruit Co., 218

UNEMPLOYMENT COMPENSATION

Yeska v. Wisconsin [44,357], 70

WORKER'S COMPENSATION

Fletes v. John I. Hass, Inc. [44,720], 624
S.G. Borello & Sons v. Department of Indus. Relations [43,751], 193

MILITARY

DISCHARGE PROCEEDINGS

Doe v. Ball, 1575

Upgrading

> Applications

White v. Secretary of Army, 997

> Jurisdiction of Military Board

White v. Secretary of Army, 997

SOLDIER'S AND SAILOR'S CIVIL RELIEF ACT

Stay of Civil Proceedings

Shelor v. Shelor, 1385

VETERANS ADMINISTRATION REGULATIONS

Brown v. Tuttle, 1475
Nehmer v. VA [44,691], 635

Promulgation

Associated Or. Veterans v. VA, 1475

VETERANS STATE PROGRAMS

Loans

Associated Or. Veterans v. VA, 1475
Brown v. Tuttle, 1475

VETERANS' BENEFITS

Doe v. Ball, 1575
Jones v. Goodson, 997

Disability

Chemical Mortgage v. Cosgray [45,263], 1348
Mansell v. Mansell, 561
Nehmer v. VA [44,691], 635
Tietjen v. VA, 1385
Younger v. Mitchell [45,278], 997, 1308

Divorced Spouse

Andresen v. Andresen, 1385
Booyer v. United States [45,424], 1550
Carmody v. Secretary of Navy, 1466
Mansell v. Mansell, 561
Taylor v. Taylor, 987
White v. White, 708

Education

Pacheo v. VA [44,688], 635

Judicial Review

Tietjen v. VA, 1385

Mortgages

Chemical Mortgage v. Cosgray [45,263], 1348
Whitehead v. Turnage, 89

Retirement

Andresen v. Andresen, 1385
Mansell v. Mansell, 561

VETERANS' SERVICE PROGRAMS

Survivors' Benefits

Quiban v. VA, 1475

VIET NAM VETERANS

Pacheo v. VA [44,688], 635

Agent Orange

Nehmer v. VA [44,691], 635

MOBILE HOMES

See HOUSING

MUNICIPAL-GOVERNMENT SERVICES

See also PUBLIC UTILITIES

Hilton v. City of New Haven [44,705], 617, 746, 1449

CITY ORDINANCES

Association of Community Org. for Reform Now v. City of New Orleans [44,865], 758
Benson v. Kutsch, 711
Guyton v. City of Alameda [44,257], 321
Oak Park Trust & Sav. Bank v. Village of Mount Prospect [44,373], 68
R/L Assoc., Inc. v. City of Seattle, 1470

DISCRIMINATION

Committee of Organized Groups v. City of Orlando [44,353], 60
Neighborhood Action Coalition v. Canton, Ohio, 1377

NATIVE AMERICANS

ABORIGINAL TITLE

Extinguishment

Village of Gambell v. Hodel [41,883], 287

ALASKA NATIVE CLAIMS SETTLEMENT ACT

Extinguishment

Village of Gambell v. Hodel [41,883], 287

BUREAU OF INDIAN AFFAIRS

Services

> Entitlement and Eligibility

Kalispel Tribe of Indians v. Brown [45,017], 1037

CLAIMS AGAINST U.S.

Begay v. United States, 86

Compensation for Taking

Littlewolf v. Lujan, 992
Rogers v. United States, 992

CONSENT TO APPLICATION OF STATE LAWS

Segundo v. Rancho Mirage City, 567

DOMESTIC RELATIONS

Catholic Social Servs., Inc. v. CAA, 1574

Adoption

F., T.N., Adoption of, *In re*, 1471
Mississippi Band of Choctaw Indians v. Holyfield, 218
Q. v. L. [44,436], 194, 751
V., A.E., *In re*, 1471

Custody

DeMent v. Oglala Sioux Tribal Court, 712

> Indian Child Welfare Act

DeFender v. Zephier [44,120], 195
F., T.N., Adoption of, *In re*, 1471
V., A.E., *In re*, 1471

» Termination of Parental Rights

Appeal in Maricopa County Juvenile Action No. JS-7359, *In re*, 86
F., R.L., *In re*, 567
Larch, *In re*, 567
Mississippi Band of Choctaw Indians v. Holyfield, 218
Q. v. L. [44,436], 194, 751
South Dakota *ex rel.* J., *In re* [44,901], 751

Divorce

> Jurisdiction

Larch, *In re*, 567

Support and Alimony

Jackson v. Bowker [44,448], 195
Utah Dep't of Social Servs. v. Vijil [44,979], 907

ENVIRONMENT

Blue Legs v. EPA [43,115], 195

Environmental Impact Statements

Tribal Village of Akutan v. Hodel, 286

EXHAUSTION OF TRIBAL REMEDIES

DeMent v. Oglala Sioux Tribal Court, 712

FEDERAL AUTHORITY

Chilkat Indian Village v. Johnson [42,100], 567

Leasing

United States v. Wilson, 993

FEDERAL BENEFITS

Eligibility

Bedoni v. Navajo-Hopi Indian Relocation Comm'n, 992
Kalispel Tribe of Indians v. Brown [45,017], 1037
Monte v. New Mexico Human Servs. Dep't [45,409], 1568

HOUSING

United States v. Wilson, 993

Relocation

> Assistance Benefits

Bedoni v. Navajo-Hopi Indian Relocation Comm'n, 992

HUNTING AND FISHING RIGHTS

Aboriginal

Village of Gambell v. Hodel [41,883], 287

Off-Reservation

Lac Courte Oreilles Band of Indians v. Wisconsin, 567

Treaties

Lac Courte Oreilles Band of Indians v. Wisconsin, 567

INDIAN COUNTRY

Rosebud Sioux Tribe v. South Dakota, 712
United States v. Thompson, 567

INDIAN NONINTERCOURSE ACT

United States v. Thompson, 567

JURISDICTION

Lewis v. Salois [45,054], 1037
South Dakota *ex rel.* J., *In re* [44,901], 751

Federal Jurisdiction

Osceola v. Florida Dep't of Revenue, 287
Seneca-Cayuga Tribe v. Oklahoma, 712

Federal Question

> Tribes

Blue Legs v. EPA [43,115], 195
Oklahoma Tax Comm'n v. Graham, 218
Rosebud Sioux Tribe v. South Dakota, 712

Habeas Corpus

Larch, *In re*, 567

State Jurisdiction

DeFender v. Zephier [44,120], 195
Jackson v. Bowker [44,448], 195
Q. v. L. [44,436], 194, 751
Rosebud Sioux Tribe v. South Dakota, 712
Segundo v. Rancho Mirage City, 567
Utah Dep't of Social Servs. v. Vijil [44,979], 907

LEASING

United States v. Wilson, 993

Mineral Rights

Tribal Village of Akutan v. Hodel, 286

RESERVATIONS

Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation, 566

Diminishment

Colorado River Indian Tribes v. Town of Parker, 219

Jurisdiction

Rosebud Sioux Tribe v. South Dakota, 712

Right of Way

Burlington N. v. Fort Peck Tribal Executive Bd., 86

Termination

Colorado River Indian Tribes v. Town of Parker, 219

SOVEREIGNTY

Conflict of Laws

Segundo v. Rancho Mirage City, 567

Immunity

> State

Osceola v. Florida Dep't of Revenue, 287
Segundo v. Rancho Mirage City, 567

> Tribal

Blue Legs v. EPA [43,115], 195

Tribal

> Environmental Regulations

Blue Legs v. EPA [43,115], 195

> Self-Government

Seneca-Cayuga Tribe v. Oklahoma, 712

> Taxation

Burlington N. v. Fort Peck Tribal Executive Bd., 86

> Zoning

Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation, 566

TAXES

Property

Osceola v. Florida Dep't of Revenue, 287

> Real

Jefferson v. Big Horn County, 86
Stewart v. Big Horn County [44,672], 589

Sales

Osceola v. Florida Dep't of Revenue, 287
Jefferson v. Big Horn County, 86

State

Oklahoma Tax Comm'n v. Graham, 218
Osceola v. Florida Dep't of Revenue, 287

Tribal

> Property

Burlington N. v. Fort Peck Tribal Executive Bd., 86

TRAFFIC LAWS

Offenses

> Jurisdiction

Rosebud Sioux Tribe v. South Dakota, 712

TRIBAL GOVERNMENT

Chilkat Indian Village v. Johnson [42,100], 567

Courts

> Custody

DeMent v. Oglala Sioux Tribal Court, 712
Mississippi Band of Choctaw Indians v. Holyfield, 218
South Dakota *ex rel.* J., *In re* [44,901], 751

> Jurisdiction

DeMent v. Oglala Sioux Tribal Court, 712
Lewis v. Salois [45,054], 1037
South Dakota *ex rel.* J., *In re* [44,901], 751

> Tribal Law

Chrysler Dodge Country, U.S.A. v. Curley [45,254], 1312

Law

Chilkat Indian Village v. Johnson [42,100], 567

TRIBAL MEMBERSHIP

Rogers v. United States, 992

TRUST RELATIONS

Responsibility

> Breach

» Damages

Rogers v. United States, 992

Trust and Restricted Lands

Seneca-Cayuga Tribe v. Oklahoma, 712

> Extinguishment of Title

Littlewolf v. Lujan, 992
United States v. Thompson, 567

ZONING

Colorado River Indian Tribes v. Town of Parker, 219

Tribal Powers

Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation, 566

PARDON AND PAROLE

See also CRIMINAL LAW AND PROCEDURE, PRISONS

DENIAL

Lewis v. Griffin, 219

PAROLE CONDITIONS

Lewis v. Griffin, 219

PATERNITY

See ILLEGITIMATE CHILDREN

PENSIONS

See also RAILROAD RETIREMENT PLAN, SOCIAL SECURITY PROGRAMS

Buck v. Department of Pub. Welfare, 1575

DISABILITY PENSION

Bueno v. CF&I Steel Corp. [44,681], 626

Arbitrary Administration of Program

Reeser v. Esmark, Inc., Pension Bd., 988

Eligibility

Public Employees Retirement Sys. of Ohio v. Betts, 563

DIVORCE

Custer v. Custer, 1375
Fenimore, Marriage of, *In re*, 1467

DUTY OF ACCOUNTABILITY

Rivera v. Miller [45,183], 1338

ELIGIBILITY

Roy v. Teachers Ins. & Annuity Ass'n, 994

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Bueno v. CF&I Steel Corp. [44,681], 626
Custer v. Custer, 1375
Massachusetts v. Morash, 215
Roy v. Teachers Ins. & Annuity Ass'n, 994
Sladek v. Bell Sys. Management Pension Plan, 994

Arbitrary Disability Awards

Reeser v. Esmark, Inc., Pension Bd., 988

Due Process

Teeter v. Supplemental Pension Plan of Consol. Rail Corp., 289

Implied Exemptions

> Execution

Travelers Ins. Cos. v. Fountain City Fed. Credit Union, 1465

Remedies

Morales v. Pan Am. Life Ins. Co., 1377
Rivera v. Miller [45,183], 1338

FIDUCIARY DUTY

Morales v. Pan Am. Life Ins. Co., 1377

Breach

Rivera v. Miller [45,183], 1338

GARNISHMENT

Travelers Ins. Cos. v. Fountain City Fed. Credit Union, 1465

SURVIVORS' BENEFITS

Johnson v. United States R.R. Retirement Bd. [45,233], 1341
Roy v. Teachers Ins. & Annuity Ass'n, 994

VESTING

Morales v. Pan Am. Life Ins. Co., 1377

Employment Termination

Rivera v. Miller [45,183], 1338

POLICE

Neighborhood Action Coalition v. Canton, Ohio, 1377

PRISONS

See also PARDON AND PAROLE

ACCESS TO COURTS

Epps, *In re*, 1471
Summers v. Salt Lake County, 993
Vigliotto v. Terry, 568
Wisconsin *ex rel.* Girouard v. Circuit Court for Jackson County, 713

Access to Legal Assistance

Blake v. Berman, 993
Houtz v. Deland, 1381
Sales v. Marshall, 568
Terry v. Anderson County Bd. of Comm'rs [44,693], 625
Williams v. McClain, 569

> Inmate

Gassler v. Rayl, 87
Murray v. Giarratano, 567

> Lawyer

Best v. Beaver [44,422], 196
Murray v. Giarratano, 567
Willey v. Clevenger [44,303], 71

Access to Records

Saar v. United States Dep't of Justice, 288

Law Libraries

> Access

Best v. Beaver [44,422], 196
Blake v. Berman, 993
Coleman v. Idaho, 87
Hadix v. Johnson, 713
Murray v. Giarratano, 567
Reutcke v. Dahm, 569
Shelby v. Buchignani [44,959], 907

Writing Materials

> Indigents

Shelby v. Buchignani [44,959], 907

ADMINISTRATION

French v. Cohn [32,778], 71

Contempt Proceedings

Inmates of Allegheny County Jail v. Wecht [21,698], 625
Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico, 1471
Palmigiano v. DiPrete [14,243], 713

APPROPRIATE CONFINEMENT OF MENTALLY DISTURBED PERSONS

Langley v. Coughlin, 569, 1472
Lewis v. Griffin, 219
Wisconsin *ex rel.* Helmer v. Cullen, 713

BANK ACCOUNT RESTRICTIONS

Hendrix v. Evans, 1381

BRUTALITY

Guards Against Inmates

Engles v. Hopkins, 569
Peterson v. Scully, 569
Shelby v. Buchignani [44,959], 907

> Cruel and Unusual Punishment

Fisher v. Koehler [44,440], 1381
Gilson v. Cox, 713
Smallwood v. Renfro, 568

Inmates Against Inmates

Boone v. Elrod, 288
Brassfield v. County of Cook, 87
Cameron v. Metcuz, 219
Fisher v. Koehler [44,440], 1381
Gilland v. Owens, 1381
Heine v. Receiving Area Personnel, 712
Marsh v. Barry, 219
Ward v. Thomas, 568

CIVIL CONTEMPT OF WARDENS

Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico, 1471

CLASSIFICATION OF PRISONERS

Canterino v. Wilson [30,606], 288

Due Process

DiStefano v. Watson, 1472
Gorman v. Moody, 713
Mitchell v. Meachum, 288
Vallina v. Meese, 219

CONDITIONS OF CONFINEMENT

Houtz v. Deland, 1381

Closing of Prisons

> Constitutional Deficiencies

Inmates of Allegheny County Jail v. Wecht [21,698], 625

Consent Decree

Beaver v. Kingman [45,481], 1549
Hadix v. Johnson, 713
Kozlowski v. Coughlin, 568, 713
Slezak v. Leeke, 284
Willey v. Clevenger [44,303], 71

Cruel and Unusual Punishment

Bedell v. Schiedler, 288
Brock v. Warren County, Tenn., 993
Cameron v. Metcuz, 219
DeGidio v. Pung, 219
Feigley v. Fulcomer, 1472
Ford v. Lane, 993
Garrett v. City of East Cleveland [44,444], 196
Gilland v. Owens, 1381
Gilson v. Cox, 713
Gorman v. Moody, 713
Howard v. Adkison, 1472
Inmates of Occoquan v. Barry [43,513], 1381
Jones v. Ehlert, 219
Saar v. United States Dep't of Justice, 288
Sample v. Diecks, 1380
Sing Louie v. Myers [44,878], 752
Terry v. Anderson County Bd. of Comm'rs [44,693], 625
Vigliotto v. Terry, 568
Willey v. Clevenger [44,303], 71
Wilson v. Lynaugh, 993

Exercise and Recreation

Gilland v. Owens, 1381
Reid v. Kayye [44,676], 625, 1380
Willey v. Clevenger [44,303], 71

Filth

Howard v. Adkison, 1472

Fire Code Compliance

Reid v. Kayye [44,676], 625, 1380

Health Care

Botero Gomez v. United States, 1574
Feigley v. Fulcomer, 1472
Langley v. Coughlin, 569, 1472
Lewis v. Sauvey, 568
McFadden v. Mississippi, 713
Peterson v. Scully, 569
Reid v. Kayye [44,676], 625
Terry v. Anderson County Bd. of Comm'rs [44,693], 625
Waldrop v. Evans, 568

Multiple Violations

Best v. Beaver [44,422], 196
Duran v. Carruthers [43,262], 1372, 1380

Inmates of Allegheny County Jail v. Wecht [21,698], 625
Reid v. Kayye [44,676], 625, 1380
Shelby v. Buchignani [44,959], 907

Overcrowding

Clements, *In re*, 986
Marsh v. Barry, 219
Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico, 1471
Reid v. Kayye [44,676], 625, 1380
Richards v. Cullen, 1574
Roberts v. Tennessee Dep't of Correction, 1472

> Population Limitations

French v. Cohn [32,778], 71
Heath v. DeCourcy [42,342], 1452
Inmates of Allegheny County Jail v. Wecht [21,698], 625
Monmouth County Correctional Inst. Inmates v. Lanzaro, 1381
Palmigiano v. DiPrete [14,243], 713
Terry v. Anderson County Bd. of Comm'rs [44,693], 625

Sanitation

Gilland v. Owens, 1381
Howard v. Adkison, 1472
Terry v. Anderson County Bd. of Comm'rs [44,693], 625

Solitary Confinement

Langley v. Coughlin, 569, 1472

Totality of Conditions

Garrett v. City of East Cleveland [44,444], 196
Terry v. Anderson County Bd. of Comm'rs [44,693], 625

Ventilation and Heating

Bedell v. Schiedler, 288
Brock v. Warren County, Tenn., 993
Sing Louie v. Myers [44,878], 752
Williams v. McClain, 569
Wilson v. Lynaugh, 993

Visitation Rights

DiStefano v. Watson, 1472
Kentucky Dep't of Corrections v. Thompson, 288

> Contact Visits

Card v. Dugger, 568
Kozlowski v. Coughlin, 568, 713

> Revocation

Czajka v. Moore, 568
Kozlowski v. Coughlin, 568, 713
Wisconsin *ex rel.* Girouard v. Circuit Court for Jackson County, 713

CUSTODY AND CONTROL OF PRISONERS

Boone v. Elrod, 288
Cameron v. Metcuz, 219
Limerick Ecology Action v. Nuclear Regulatory Comm'n [44,546], 330
Sample v. Diecks, 1380

Administrative Segregation

Saar v. United States Dep't of Justice, 288

> Due Process

Dunn v. White, 993
Sanders v. Borgert, 713
Toussaint v. Rowland, 712
Vallina v. Meese, 219
Woodson v. Lack, 87

> Hearings

Dunn v. White, 993
Sanders v. Borgert, 713
Toussaint v. Rowland, 712

Close Management Status

> Due Process

Allen v. Lowder, 712
Heine v. Receiving Area Personnel, 712

Contraband Regulations

Rules Adoption Re Inmate Mail to Attorneys, *In re*, 569

Disciplinary Proceedings-Hearings

Rucker v. Johnson, 1472

> Constitutionality

Giano v. Sullivan, 713
Gittens v. Sullivan, 1381
Gorman v. Moody, 713
Young v. Kihl, 1381

> Discrimination

Bonner v. Arizona Dep't of Corrections, 993

> Due Process

Bonner v. Arizona Dep't of Corrections, 993
Czajka v. Moore, 568
Giano v. Sullivan, 713
Gorman v. Moody, 713
Neitzke v. Williams, 284
Sanders v. Borgert, 713
Shelby v. Buchignani [44,959], 907
Vasquez v. Coughlin, 1574
Woodson v. Lack, 87

> Judicial Review

Giano v. Sullivan, 713

Drug Testing

Pella v. Adams, 87
Rucker v. Johnson, 1472

Educational Opportunities

Glover v. Johnson [23,446], 1472
Hendrix v. Evans, 1381
Kruckeberg v. Dubois [44,296], 71

Employment

James v. Quinlan, 219, 1373
Moore v. Grammer, 993
Prows v. United States Dep't of Justice, 219

Protective or Voluntary Custody

Crozier v. Shillinger, 713
Inmates of Occoquan v. Barry [43,513], 1381

Published Regulations

Kentucky Dep't of Corrections v. Thompson, 288
Richards v. Cullen, 1574

Punitive Segregation

Czajka v. Moore, 568
Inmates of Occoquan v. Barry [43,513], 1381
Sanders v. Borgert, 713

Reclassification

> Due Process

Vallina v. Meese, 219

Recreational Opportunities

Willey v. Clevenger [44,303], 71

DAMAGES

Arnold v. Jones, 1574
Blake v. Commissioner of Correction, 87
Ford v. Lane, 993
Houtz v. Deland, 1381
Kozlowski v. Coughlin, 568, 713
Reutcke v. Dahm, 569
Slezak v. Leeke, 284

DEFENSES

Reid v. Kayye [44,676], 625, 1380

Good Faith

Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico, 1471

Immunity

Arnold v. Jones, 1574
Duran v. Carruthers [43,262], 1372, 1380
Ford v. Lane, 993
Friedman v. Young, 87
Gittens v. Sullivan, 1381
Langley v. Coughlin, 569, 1472
Lewis v. Sauvey, 568
Reutcke v. Dahm, 569
Rucker v. Johnson, 1472
Ryan v. Burlington County, 569
Smallwood v. Renfro, 568
Vasquez v. Coughlin, 1574
Wareham v. Jeffes, 1472
Wilder v. Tanouye, 1472

Lack of Funds

Sales v. Marshall, 568

EDUCATIONAL PROGRAMS

Glover v. Johnson [23,446], 1472
Hendrix v. Evans, 1381
Kruckeberg v. Dubois [44,296], 71

FREEDOM OF SPEECH

Hendrix v. Evans, 1381
Wilder v. Tanouye, 1472

GOOD TIME

Jackson v. Thornburgh, 87

County Jail Inmate Eligibility

Terry v. Anderson County Bd. of Comm'rs [44,693], 625

Loss

> Due Process

Mitchell v. Meachum, 288

HANDICAPPED PERSONS

Bonner v. Arizona Dep't of Corrections, 993

HEALTH CARE

Access

> Outside Medical Care

Hawley v. Evans, 1381
Smallwood v. Renfro, 568

Adequacy

Botero Gomez v. United States, 1574
Brassfield v. County of Cook, 87
DeGidio v. Pung, 219
Gilland v. Owens, 1381
Hawley v. Evans, 1381
Langley v. Coughlin, 569, 1472
McFadden v. Mississippi, 713
Neitzke v. Williams, 284
Saar v. United States Dep't of Justice, 288
Sales v. Marshall, 568
Waldrop v. Evans, 568
Wareham v. Jeffes, 1472

Drugs

> Continuation of Medication

Jones v. Ehlert, 219
Lewis v. Sauvey, 568
Waldrop v. Evans, 568

> Withdrawal

Liscio v. Warren, 1380

Right to Prompt Treatment

Langley v. Coughlin, 569, 1472
Peterson v. Scully, 569

Screening Examinations

Feigley v. Fulcomer, 1472

INMATE INJURIES

Arnold v. Jones, 1574

Adequacy of Medical Care

Brassfield v. County of Cook, 87
Ford v. Lane, 993
Waldrop v. Evans, 568
Wareham v. Jeffes, 1472

Section 1983

Boone v. Elrod, 288
Brassfield v. County of Cook, 87
Cameron v. Metcuz, 219
Engles v. Hopkins, 569
Ford v. Lane, 993
Hardin v. Straub, 559
Heine v. Receiving Area Personnel, 712
Lumpkin v. Burns, 87
Marsh v. Barry, 219
McFadden v. Mississippi, 713
Pella v. Adams, 87
Peterson v. Scully, 569
Ryan v. Burlington County, 569
Sing Louie v. Myers [44,878], 752
Waldrop v. Evans, 568
Ward v. Thomas, 568

Tort Action

Friedman v. Young, 87

MAIL PRIVILEGES

Rogers v. Isom, 569
Rules Adoption Re Inmate Mail to Attorneys, *In re*, 569
Williams v. McClain, 569

Censorship

Gorman v. Moody, 713
Thornburgh v. Abbott, 287

MARRIAGE RIGHTS

Langone v. Coughlin, 993

PERSONAL PROPERTY

Blankenship v. Gunter, 569

State's Responsibility

Vigliotto v. Terry, 568

PERSONNEL

Training

Brock v. Warren County, Tenn., 993
Gittens v. Sullivan, 1381
Young v. Kihl, 1381

PRETRIAL DETENTION

Conditions

Reid v. Kayye [44,676], 625, 1380
Williams v. McClain, 569

Injuries

Boone v. Elrod, 288

READING MATTER

Thornburgh v. Abbott, 287

RECORDS

Access

Prisoners' Legal Serv. of N.Y. v. N.Y. State Dep't of Correctional Servs., 285

REGULATIONS

Hadix v. Johnson, 713
Richards v. Cullen, 1574
Rules Adoption Re Inmate Mail to Attorneys, *In re*, 569

Photographs

Benjamin v. Coughlin [42,487], 569

REHABILITATION PROGRAMS

Education

Abraham v. Marist College, 285
Canterino v. Wilson [30,606], 288
Hendrix v. Evans, 1381

Employment

Canterino v. Wilson [30,606], 288
James v. Quinlan, 219, 1373
Prows v. United States Dep't of Justice, 219

Right to

DiStefano v. Watson, 1472
Terry v. Anderson County Bd. of Comm'rs [44,693], 625

Work Release

Canterino v. Wilson [30,606], 288
DiAngelo v. Illinois Dep't of Pub. Aid, 1570

RELIGIOUS PRACTICES

Benjamin v. Coughlin [42,487], 569
Best v. Beaver [44,422], 196
Blankenship v. Gunter, 569
Card v. Dugger, 568

Food

Muhammad v. McMickens, 569

Right to Services

Garrett v. City of East Cleveland [44,444], 196

RIGHT TO PRIVACY

Dunn v. White, 993
Gilson v. Cox, 713
Lumpkin v. Burns, 87
Summers v. Salt Lake County, 993

SEARCHES

Kozlowski v. Coughlin, 568, 713

Body Searches

Friedman v. Young, 87

Property Searches

Vigliotto v. Terry, 568

SOLITARY CONFINEMENT

Due Process

Giano v. Sullivan, 713

SUPERVISION OF PRISONERS

Dunn v. White, 993
Gilson v. Cox, 713
Heine v. Receiving Area Personnel, 712
Toussaint v. Rowland, 712

TRANSFERS

Blake v. Commissioner of Correction, 87
Gassler v. Rayl, 87

Procedural Rights

Baptist v. Lane, 568

WOMEN'S FACILITIES

Bedell v. Schiedler, 288
Jackson v. Thornburgh, 87

Treatment and Rehabilitation

Langley v. Coughlin, 569, 1472

Vocational Training

Glover v. Johnson [23,446], 1472

Work Release Program

> Sex Discrimination

Canterino v. Wilson [30,606], 288
Glover v. Johnson [23,446], 1472

PRIVACY

C. v. Hughes [44,421], 189
Doe v. Attorney Gen. of United States, 1470
Doe v. New Hampshire Div. for Children & Youth Servs. [44,723], 622, 1336
Federal Labor Relations Auth. v. Department of Treasury, 1376
Grimes v. Springfield Hous. Auth. [45,213], 1334
Illinois v. Madison [44,896], 727
Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665], 583, 1008

DRUG TESTING

American Fed'n of Gov't Employees v. Cavazos, 1468
American Postal Workers Union v. Frank, 1573
Bangert v. Hodel, 285
Chiles Offshore, Inc. v. Administrator, Dep't of Employment Sec., 1475
Dimeo v. Griffin [45,028], 1015
Employment Sec. Comm'n of Wyo. v. Western Gas Processors [45,450], 1566
Johnson v. Carpenter Technology Corp., 1468
Johnson v. Utah Dep't of Employment Sec., 1475
Kross v. Tippecanoe County School Corp., 84
Monaghan v. Crawford, 83
National Treasury Employees Union v. Lyng, 285
National Treasury Employees Union v. Von Raab, 215
Philadelphia Elec. Co. v. Pennsylvania Unemployment Compensation Bd. of Review, 1475
Redman Homes, Inc. v. Employment Div., 997
Sazon v. Francis [44,943], 912, 1566
Skinner v. Railway Labor Executives Ass'n; National Treasury Employees Union v. Von Raab, 215
Sullivan v. Michigan Employment Sec. Comm'n [45,291], 1347
Taylor v. O'Grady [45,202], 1317
Transport Workers' Union v. Southeastern Pa. Transp. Auth., 1376

FAMILY UNITY

Doe v. City of Butler, Pa. [44,660], 611, 1573
Summeries v. Chicago Hous. Auth. [45,004], 1027

PUBLIC HOUSING

See HOUSING

PUBLIC TRANSPORTATION

DISCRIMINATION

Inner City Residents

Committee for a Better N. Philadelphia v. Southeastern Pa. Transp. Auth. [43,324], 337

FUNDING

Committee for a Better N. Philadelphia v. Southeastern Pa. Transp. Auth. [43,324], 337

HANDICAPPED PERSONS

Americans Disabled for Accessible Pub. Transp. v. Skinner [43,230], 737
Buchanan v. Clark County Pub. Transp. Benefit Area Auth. [43,644], 1322
Samaroff v. Northeast Ill. Regional Commuter R.R. [45,244], 1321

RATE INCREASES

Southeastern Pa. Transp. Auth. v. Association of Community Orgs. for Reform Now, 1384

URBAN MASS TRANSPORTATION ACT

Americans Disabled for Accessible Pub. Transp. v. Skinner [43,230], 737
Southeastern Pa. Transp. Auth. v. Association of Community Orgs. for Reform Now, 1384

PUBLIC UTILITIES

See also ENERGY

BILLING

Deposit Requirements

Leach v. Hull Mun. Light Plant [45,089], 1037, 1339
Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171], 1340

Payment Plans

> Delinquent Customers

Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171], 1340

CONSERVATION PROGRAMS

Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171], 1340

DENIAL OF SERVICE

Due Process

Leach v. Hull Mun. Light Plant [45,089], 1037, 1339

HANDICAPPED PERSONS

Dale v. Sierra Pac. Power Co. [44,923], 752

NUCLEAR CONSTRUCTION

Licensing

Limerick Ecology Action v. Nuclear Regulatory Comm'n [44,546], 330

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Intervenors

> Attorney Fees

Utah State Coalition of Senior Citizens v. Utah Power & Light Co., 985

RATES

Increases

> Investigation of Costs

Business & Professional People for the Pub. Interest v. Illinois Commerce Comm'n [44,492], 196

> Nuclear Plants

Business & Professional People for the Pub. Interest v. Illinois Commerce Comm'n [44,492], 196

> Ratemaking Authority

Business & Professional People for the Pub. Interest v. Illinois Commerce Comm'n [44,492], 196

Structures

Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171], 1340

TERMINATION

Arrearage Caused by Utility's Mistake

Chappell v. Mountain Fuel Supply Co. [45,251], 1339
Chappell v. Mountain Fuel Supply Co. [45,267], 1339

Due Process

Leach v. Hull Mun. Light Plant [45,089], 1037, 1339

Emergencies

Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171], 1340

Inability to Pay Arrearage

Dale v. Sierra Pac. Power Co. [44,923], 752
Whittaker v. Philadelphia Elec. Co. (Whittaker, In re), 1373

Unpaid Bills

Chappell v. Mountain Fuel Supply Co. [45,251], 1339
Chappell v. Mountain Fuel Supply Co. [45,267], 1339

RAILROAD RETIREMENT PLAN

See also SOCIAL SECURITY PROGRAMS

SURVIVORS' BENEFITS

Eligibility

Johnson v. United States R.R. Retirement Bd. [45,233], 1341

RELOCATION

See also HOUSING

APPEALS

Garcia v. Anthony [45,109], 1031

PLANNING PROCEDURES

La Raza Unida of S. Alameda County v. Skinner [5854], 611

RACIAL IMPACT

La Raza Unida of S. Alameda County v. Skinner [5854], 611

UNIFORM RELOCATION ACT

Eligibility

> Displaced Persons

La Raza Unida of S. Alameda County v. Skinner [5854], 611

URBAN RENEWAL

Houston v. City of Cocoa [44,272], 1445

REPOSSESSION

See also AUTOMOBILES, CONSUMER

Chrysler Dodge Country, U.S.A. v. Curley [45,254], 1312

DEFICIENCY JUDGMENT

Loyola Fed. Sav. & Loan v. Edler [45,203], 1313
Loyola Fed. Sav. & Loan v. Smith [45,212], 1313

Notification

Mellon Bank v. Dougherty [43,841], 895, 1312

RESALE DEFICIENCIES OR SURPLUS

Notices

Mellon Bank v. Dougherty [43,841], 895, 1312

SALES

Brooks v. Wachovia Bank & Trust [45,393], 1437
Crumley v. Berry, 284

Commercially Reasonable

New v. S&B Used Cars [45,384], 1437

Notices

Cox v. 8th St. Auto Sales [45,253], 1311
Loyola Fed. Sav. & Loan v. Edler [45,203], 1313
Loyola Fed. Sav. & Loan v. Smith [45,212], 1313
Mellon Bank v. Dougherty [43,841], 895, 1312

RURAL ISSUES

See also HOUSING

FARM CREDIT SYSTEM

Griffin v. Federal Land Bank of Wichita, 569
Hill v. Farm Credit Bank of St. Louis, 1574
Leckband v. Naylor, 1381

FARMERS HOME ADMINISTRATION

Farmer Loan Programs

Moseanko v. Yeutter [42,954], 1340

SENIOR CITIZENS

Roy v. Teachers Ins. & Annuity Ass'n, 994

ASSISTANCE PROGRAMS

Appalachian Agency for Senior Citizens v. Ferguson [40,909], 219
Duncan v. Perales [40,991], 317, 743
Hoffman v. Otwell [43,637], 1341
Meek v. Martinez [42,981], 1473

Food Stamps

Gagnon v. Atkins [43,814], 736

Medicare

Cone v. Babcock [44,615], 316, 1024

State Supplemental Payments

Cone v. Babcock [44,615], 316, 1024

Supplemental Security Income

> OASDI

Brinkman v. Rahm [41,131], 995
Dixon v. Bowen [36,027], 755

DISCRIMINATION

Action Alliance of Senior Citizens of Greater Philadelphia v. Bowen [34,403], 173
FTC v. Green Tree Acceptance [44,327], 731
Meek v. Martinez [42,981], 1473

GUARDIANSHIP

Browning, Guardianship of, *In re* [45,085], 710, 1022
Hemon v. Office of Pub. Guardian, 994
Kline v. Utah Dep't of Health, 990
Pennsylvania Dep't of Pub. Welfare v. Bean, 570

HOUSING

Evictions

Coronet Properties v. Township of North Bergen [44,463], 193, 1562
Ellin Corp. v. Township of North Bergen [44,464], 193
Henson v. District of Columbia Dep't of Consumer & Regulatory Affairs, 994

Group Housing Zoning

Baer v. Town of Brookhaven [44,613], 321

Mandatory Meal Charge

Gonzalez v. St. Margaret's Hous. Dev. Fund, 990

Personal Care Homes

Henson v. District of Columbia Dep't of Consumer & Regulatory Affairs, 994

INCOMPETENCY

Sladek v. Bell Sys. Management Pension Plan, 994
Weaver v. New York City Employees' Retirement Sys., 1381
Williams v. Forrest [44,907], 752

Guardianship

> Duties

Browning, Guardianship of, *In re* [45,085], 710, 1022
Pennsylvania Dep't of Pub. Welfare v. Bean, 570

> Qualifications

Browning, Guardianship of, *In re* [45,085], 710, 1022

INSURANCE

Colonial Penn Life Ins. Co., *In re* [44,451], 307

LEGAL SERVICES

Legal Aid Soc'y of Charleston v. West Virginia Comm'n on Aging [43,941], 1038

SOCIAL SECURITY PROGRAMS

ADMINISTRATIVE LAW JUDGES

Grant v. Sullivan [44,741], 631, 755
Nash v. Bowen, 284

Decisions

Bettis v. Sullivan, 714

Duties

Gonzalez v. Bowen, 1383
Pierre v. Sullivan, 1382
Simms v. Sullivan, 994
Stephens, *In re* [45,279], 1309

Errors in Hearing

Davis v. Heckler, 220

Hudson v. Bowen, 570
Pope v. Bowen, 1473
Simms v. Sullivan, 994

Submission of Proposed Exhibits

Miller v. Bowen [45,358], 1454

ADMINISTRATIVE REVIEW

Nash v. Bowen, 284

Overpayments

Swann, *In re* [45,434], 1565

Reduction in Benefits

Overend v. Sullivan, 995

Remands

Hester v. Secretary of HHS [44,571], 332
Key v. Sullivan [44,964], 910

APPEALS COUNCIL

Action on Remand

Key v. Sullivan [44,964], 910

Denial of Review

Loyd v. Sullivan, 995

Power to Revise or Reopen

Chisholm v. Secretary of HHS, 1383
Overend v. Sullivan, 995

Practice and Procedure

McQuiddy v. HHS, 1473
Sorenson v. Bowen, 571

Review of Favorable ALJ Decisions

Chunglo v. Secretary of HHS [45,353], 1454
Correa v. Bowen [44,894], 755

Time Limits

Aschettino v. Sullivan, 1474
Reagan v. Secretary of HHS, 994

> Extensions

Loyd v. Sullivan, 995
Hall v. Bowen [44,352], 73

Misinformation by SSA Employee

> Estoppel

Duthu v. Sullivan, 1382
Eagle v. Sullivan, 996

ASSETS

Exemptions

DeMoss v. Heckler, 289

ATTORNEY FEES

Baker v. Bowen, 283
Bowker v. Bowen, 283
Brown v. Sullivan, 1463
Chynoweth v. Bowen [44,462], 171
Coup v. Heckler, 283
Desrouchers v. Heckler, 82
Green v. Bowen, 985
Hills v. Secretary of HHS, 1570
Huddleston v. Secretary of HHS [44,503], 199
Huett v. Bowen, 558
Jankovich v. Bowen, 283
Johnstun v. Washington Dep't of Social & Health Servs., 82
Kelly v. Bowen, 81
Lee v. Sullivan, 1463
Lopez v. Sullivan, 1372
Mara v. Sullivan, 1463
Martindale v. Sullivan, 1463
McDonald v. Secretary of HHS [41,450], 1372
McGuire v. Sullivan, 1463
McNeill v. HHS, 985
Myers v. Sullivan, 706
Myrick v. Secretary of HHS [44,518], 171
Pappas v. Bowen, 81
Peterson v. Bowen, 283
Pirus v. Bowen [42,245], 171
Robinson v. Sullivan, 1372
Rodriquez v. Bowen, 81
Russell v. Heckler, 213
Russell v. Sullivan, 1463
Sheely v. Wisconsin Dep't of Health & Social Servs. [43,864], 584
Smith v. Bowen [43,348], 213
Straw v. Bowen, 213
Sullivan v. Hudson, 558
Terry v. Bowen, 706
Trahan v. Regan [42,658], 1463
Weisbrod v. Sullivan, 706
Wiegand v. Secretary of HHS, 706
Willis v. Sullivan [43,693], 1041

BENEFITS

Amount

> Insured Status

DeMoss v. Heckler, 289

Entitlement

Briggs v. Sullivan [44,289], 332, 1039
Bruse, *In re* [44,921], 758

Execution

> Exemptions

Jones v. Marion Small Claims Court [44,428], 176
Long v. Huppert [44,429], 176

Lump Sum Death Benefits

Strickland, *In re* [44,861], 757

Overpayments

Brown v. Bowen [44,787], 754
Pliley v. Sullivan, 1574
Swann, *In re* [45,434], 1565

Reduction

Brickey v. Bowen, 1474

> Offset

Batista v. Sullivan, 1382
Frazier v. Marine Midland Bank, 214
Overend v. Sullivan, 995
Priest v. Canada Life Assurance Co., 1374
Willis v. Sullivan [43,693], 1041

Retroactive

Bruse, *In re* [44,921], 758
Martin v. East Side Hous. Corp. [45,014], 1029

CHILD'S INSURANCE BENEFITS

Hart v. Bowen [44,467], 197
Marcus v. Sullivan [38,704], 627, 1342
Rose v. Bowen, 714
Williams v. Williams [45,328], 1467

Eligibility

> Adopted Children

Lindley v. Sullivan, 1473

> Illegitimate Children

Baker v. Sullivan, 995
Garcia v. Sullivan, 714
Johnson, *In re* [44,918], 757
McDowell v. Bowen [44,297], 73
Smith v. Bowen [44,684], 627
Terrell, *In re* [44,602], 336

> Stepchildren

Brickey v. Bowen, 1474

Presumption of Legitimacy

> Rebuttable

Garcia v. Sullivan, 714

Representative Payees

Corr v. Sullivan, 1575

CLAIMS

Applications

Robinson v. Grinker [42,952], 208

Initial Determination Process

Robinson v. Grinker [42,952], 208

Reopening

Baker v. Sullivan, 995
Barone v. Bowen, 289
Coates v. Bowen, 714
Ferguson v. Sullivan, 1383
Gonzalez v. Sullivan [42,747], 632
Johnson v. Sullivan [35,037], 908
Terrell, *In re* [44,602], 336

DISABILITY BENEFITS

Loyd v. Sullivan, 995

Administration

> Notices

Gonzalez v. Sullivan [42,747], 632
Peck v. Sullivan [44,900], 754

> Procedures

Hunt v. Van Cura [44,084], 753

Burden of Proof

Allen v. Bowen, 994
Pope v. Bowen, 1473
Reyes v. Bowen [44,706], 631

Covered Quarters

Sprow v. Bowen, 88

Decisionmaking Process

Wilson v. Sullivan, 714

Delay in Processing

Holman v. Sullivan [24,449], 1564
Saltares v. Bowen, 714

Determinations

Barone v. Bowen, 289
Reyes v. Bowen [44,706], 631

> Notice

Christopher v. Secretary of HHS, 88
Wilson v. Sullivan, 714

> Quality

Bettis v. Sullivan, 714
Hunt v. Van Cura [44,084], 753
Panages v. Bowen, 570
Pearce v. Sullivan, 570
Tepfer v. Secretary of HHS, 714

> Timeliness

Pugliese v. Bowen [44,735], 630

Eligibility

DeMoss v. Heckler, 289
Hutsell v. Sullivan, 1574
Pearson v. Bowen, 219
Thompson v. Secretary of HHS, 1474

> Ability to Work

Adams v. Bowen, 714
Bartley v. Bowen [44,481], 198
Brown v. Bowen, 715
Burton v. Bowen, 220
DeRobertis v. Bowen, 1383
Freemyer v. Sullivan, 1474
Jelinek v. Bowen, 570
Kier v. Sullivan [45,112], 1038, 1341
Lamkin v. Bowen [45,128], 1040
Manzer v. Sullivan [45,041], 1039
Rizzo v. HHS, 571
Smith v. Bowen, 996
Tepfer v. Secretary of HHS, 714
Walter v. Secretary of HHS [44,098], 334
Waters v. Bowen, 571
Weetman v. Sullivan, 714

» Age as Factor

R., *In re* [45,447], 1565

> Alcoholism

Boyd v. Bowen, 715
Carter v. Sullivan [44,887], 756
Cooper v. Bowen, 289
Cornette v. Secretary of HHS, 289
DeCarolis v. Secretary of HHS, 1474
Henshaw v. Bowen, 571
Schoolcraft v. Sullivan [45,479], 1564
Wilkerson v. Sullivan [44,589], 335, 1041, 1342
Wilmer v. Sullivan [44,791], 754, 1343

> Availability of Other Work

Allen v. Bowen, 994
Burton v. Bowen, 220
DeFrancesco v. Bowen, 220
Guzman v. Secretary of HHS [44,725], 629
Karalfa v. Sullivan [44,732], 630
Mateer v. Bowen, 88
Wheeler v. Sullivan, 995, 1473

> Blind Persons

Adams v. Bowen, 714
Turpin v. Sullivan [44,994], 909

> Cessation of Disabilities

Gormas v. Bowen, 996
Lamkin v. Bowen [45,128], 1040
Walker v. Secretary of HHS, 1382

> Cumulative Effect of Disabilities

Bailey v. Sullivan [40,070], 1038
Boyd v. Bowen, 715
Hudson v. Bowen, 570
Kier v. Sullivan [45,112], 1038, 1341
Marcus v. Sullivan [38,704], 627, 1342
Walker v. Bowen, 714, 1473
Walter v. Secretary of HHS [44,098], 334
Wilmer v. Sullivan [44,791], 754, 1343

> Date of Onset

Cornette v. Secretary of HHS, 289
Coup v. Heckler, 283
DeRobertis v. Bowen, 1383
H., *In re* [44,466], 202
Hansley v. Bowen, 571
Leidler v. Sullivan, 1382
Manning v. Bowen, 1383
McAdams v. Secretary of HHS, 1575
Stein v. Sullivan, 1574
Storey v. Bowen [44,636], 333
Wright v. Bowen, 88

> Determining Medical Equivalence

Jackson v. Bowen, 570

> Drug Addiction

Schoolcraft v. Sullivan [45,479], 1564
Wilkerson v. Sullivan [44,589], 335, 1041, 1342

> Failure to Rehabilitate

Johnson v. Bowen, 88
Sharp v. Bowen, 289

> Medical-Vocational Guidelines

Brooks v. Sullivan, 1382
R., *In re* [45,447], 1565
Reyes v. Bowen [44,706], 631

> Mental Disabilities

Freemyer v. Sullivan, 1474
Leidler v. Sullivan, 1382
McAllister v. Sullivan, 995, 1473
McQuiddy v. HHS, 1473
Sanchez v. Secretary of HHS, 1383
Sharp v. Bowen, 289
Vega v. Bowen, 715

> Method of Evaluation

Adams v. Bowen, 714
Butler v. Bowen, 88
Marcus v. Sullivan [38,704], 627, 1342
Turpin v. Sullivan [44,994], 909
Walker v. Bowen, 714, 1473
Wilkerson v. Sullivan [44,589], 335, 1041, 1342
Wilson v. Sullivan, 714

> Proof and Severity of Disability

Dixon v. Bowen [36,027], 755
Freemyer v. Sullivan, 1474
Hudson v. Bowen, 570
Jackson v. Bowen, 570
Turpin v. Sullivan [44,994], 909

Evidence

Panages v. Bowen, 570
Schoolcraft v. Sullivan [45,479], 1564

> Credibility

Brooks v. Sullivan, 1382
Correa v. Bowen [44,894], 755
Foster v. Bowen [44,495], 198, 628
Haywood v. Sullivan, 1473
Hockenhull v. Bowen, 1474
Hyatt v. Sullivan [35,159], 706, 715
Jackson v. Bowen, 570
Lynn v. Bowen, 88
Magallanes v. Bowen, 995
Pearce v. Sullivan, 570
Stewart v. Sullivan, 995
Storey v. Bowen [44,636], 333
Waudby v. Bowen, 996

> Cross-Examination

Wallace v. Bowen, 289

> Cumulative Effect of Disabilities

Hunt v. Van Cura [44,084], 753
Wilmer v. Sullivan [44,791], 754, 1343

> Erroneous Legal Standard

Carter v. Sullivan [44,887], 756
Waters v. Bowen, 571
Wilkerson v. Sullivan [44,589], 335, 1041, 1342

> Medical Equivalence

Marcus v. Sullivan [38,704], 627, 1342

> Medical Evidence

Chisholm v. Secretary of HHS, 1383
Hunt v. Van Cura [44,084], 753
Logan v. Bowen, 996
Santiago v. Bowen [44,946], 908, 1383
Stein v. Sullivan, 1574
T., *In re* [44,483], 201
Valerio v. Bowen [45,256], 1344
Waters v. Bowen, 571
Williams v. Bowen, 995

» Disregarded by ALJ

Baker v. Bowen [45,264], 1342
Baran v. Bowen [44,375], 74
Burkes v. Sullivan [45,386], 1453
Davis v. Heckler, 220
Foster v. Bowen [44,495], 198, 628
Gonzalez v. Bowen, 1383
Hansley v. Bowen, 571
Hockenhull v. Bowen, 1474
Hurd v. Bowen [44,863], 756
Magallanes v. Bowen, 995
Mosteller v. Bowen, 220
Rallo v. Secretary of HHS, 571
Smith v. Bowen, 996
Stewart v. Sullivan, 995
Storey v. Bowen [44,636], 333
Swenson v. Sullivan, 714
Weetman v. Sullivan, 714
York v. Bowen, 88

> Medical Findings

Jackson v. Bowen, 570

> Medical-Vocational Guidelines

Allen v. Bowen, 994
Allen v. Sullivan, 996
Butler v. Bowen, 88

Cooper v. Sullivan, 995
Karalfa v. Sullivan [44,732], 630
Magallanes v. Bowen, 995
Pearson v. Bowen, 219
Rallo v. Secretary of HHS, 571
Reyes v. Bowen [44,706], 631
Walker v. Bowen, 714, 1473
Walter v. Secretary of HHS [44,098], 334

> Mental Disabilities

R., *In re* [44,590], 336
Romero v. Secretary of HHS, 289
Sharp v. Bowen, 289
Wheeler v. Sullivan, 995, 1473

> Outside Record

Wallace v. Bowen, 289

> Pain

Baker v. Bowen [45,264], 1342
Baran v. Bowen [44,375], 74
Bartley v. Bowen [44,481], 198
Burton v. Bowen, 220
Guzman v. Secretary of HHS [44,725], 629
Hockenhull v. Bowen, 1474
Hunt v. Van Cura [44,084], 753
Hyatt v. Sullivan [35,159], 706, 715
Jelinek v. Bowen, 570
Long v. Bowen, 220
Ludden v. Bowen, 1473
Lynn v. Bowen, 88
Magallanes v. Bowen, 995
Mateer v. Bowen, 88
Mosteller v. Bowen, 220
Nelson v. Bowen, 994
Smith v. Bowen [43,894], 175
Stewart v. Sullivan, 995
Storey v. Bowen [44,636], 333
Walker v. Bowen, 714, 1473
Waters v. Bowen, 571
Waudby v. Bowen, 996
Weetman v. Sullivan, 714

> Substantial

Bryant v. Bowen, 1382
Burkes v. Sullivan [45,386], 1453
Carter v. Sullivan [44,887], 756
Cooper v. Bowen, 289
DeRobertis v. Bowen, 1383
Gossett v. Bowen, 88
Hutsell v. Sullivan, 1574
Jackson v. Bowen, 570
Lynn v. Bowen, 88
McQuiddy v. HHS, 1473
Simmons v. Bowen, 714
Stein v. Sullivan, 1574
Stratton v. Bowen, 220
Vega v. Bowen, 715
Walker v. Secretary of HHS, 1382
Wilson v. Sullivan, 1382
Wright v. Bowen, 88

> Testimony of Treating Physician

Burkes v. Sullivan [45,386], 1453
Cooper v. Bowen, 289
Davis v. Heckler, 220
Hamm v. Secretary of HHS, 220
Kier v. Sullivan [45,112], 1038, 1341
Long v. Bowen, 220
Magallanes v. Bowen, 995
Manzer v. Sullivan [45,041], 1039
McAllister v. Sullivan, 995, 1473
Pappalardo v. Bowen [44,679], 630
Pascual v. Sullivan, 1383
Santiago v. Bowen [44,946], 908, 1383
Sorenson v. Bowen, 571
Stratton v. Bowen, 220
T., *In re* [44,483], 201
Valerio v. Bowen [45,256], 1344

> Uncontradicted Medical Opinion

Bartley v. Bowen [44,481], 198
Hamm v. Secretary of HHS, 220

Hearings

Grant v. Sullivan [44,741], 631, 755

> Absence of Counsel

Turner v. Bowen, 88

> Aid Paid Pending

Davie v. Sullivan [45,352], 1454

> Burden of Proof

Allen v. Bowen, 994
Wheeler v. Sullivan, 995, 1473

> Fair Hearing Rights

Wallace v. Bowen, 289

> Illiterate Claimant

Turner v. Bowen, 88

> Posthearing Examination

Haywood v. Sullivan, 1473

> Responsibilities of ALJ

Baker v. Bowen [45,264], 1342
Carter v. Sullivan [44,887], 756
DeCarolis v. Secretary of HHS, 1474
Foster v. Bowen [44,495], 198, 628
Gonzalez v. Bowen, 1383
Hester v. Secretary of HHS [44,571], 332
Hurd v. Bowen [44,863], 756
Panages v. Bowen, 570
Pascual v. Sullivan, 1383
Pearce v. Sullivan, 570
Rallo v. Secretary of HHS, 571
Simms v. Sullivan, 994
Storey v. Bowen [44,636], 333
Thompson v. Sullivan, 995
Walker v. Bowen, 714, 1473

> Submission of Evidence

McAllister v. Sullivan, 995, 1473

> Testimony

» Claimant

Manzer v. Sullivan [45,041], 1039
Swenson v. Sullivan, 714
Waudby v. Bowen, 996

» Treating Physician

Burkes v. Sullivan [45,386], 1453
Pappalardo v. Bowen [44,679], 630
Swenson v. Sullivan, 714

» Vocational Expert

Allen v. Bowen, 994
Allen v. Sullivan, 996
DeFrancesco v. Bowen, 220
Karalfa v. Sullivan [44,732], 630
Ludden v. Bowen, 1473
Magallanes v. Bowen, 995
Rallo v. Secretary of HHS, 571
Swenson v. Sullivan, 714
Wheeler v. Sullivan, 995, 1473
Wilmer v. Sullivan [44,791], 754, 1343

» Witness

Logan v. Bowen, 996

Impairments

> Listing

Crowder v. Sullivan [44,893], 756
English v. Sullivan [44,535], 334
Kier v. Sullivan [45,112], 1038, 1341
LeVasseur v. Bowen [44,751], 628
Marcus v. Sullivan [38,704], 627, 1342
R., *In re* [45,447], 1565
Romero v. Secretary of HHS, 289
Wheeler v. Sullivan, 995, 1473
Williams v. Bowen, 995

> Severity

Bailey v. Sullivan [40,070], 1038
Gossett v. Bowen, 88
Johnson v. Sullivan [35,037], 908
LeVasseur v. Bowen [44,751], 628
R., *In re* [44,590], 336
Romero v. Secretary of HHS, 289
Wheeler v. Sullivan, 995, 1473

Insurance Benefits

Higgs v. Bowen, 994
Priest v. Canada Life Assurance Co., 1374

Lump Sum Payments

Holt v. Bowen [44,479], 197, 333
Letendre v. Housing Auth. of Woonsocket [44,369], 65

Medical-Vocational Guidelines

Cooper v. Sullivan, 995

Mental Disabilities

H., *In re* [44,466], 202
Karalfa v. Sullivan [44,732], 630
LeVasseur v. Bowen [44,751], 628
Pappalardo v. Bowen [44,679], 630
Pierre v. Sullivan, 1382
Wilkerson v. Sullivan [44,589], 335, 1041, 1342

> Social Interaction

McAllister v. Sullivan, 995, 1473

Payment of Benefits

Holt v. Bowen [44,479], 197, 333

Prescribed Treatment

Hester v. Secretary of HHS [44,571], 332

Presumptive Disability

English v. Sullivan [44,535], 334
Storey v. Bowen [44,636], 333

Prompt Processing

Saltares v. Bowen, 714

Res Judicata

H., *In re* [44,466], 202
Huddleston v. Secretary of HHS [44,503], 199
Peck v. Sullivan [44,900], 754
Rogerson v. Secretary of HHS, 570

Retroactive Benefits

Bruse, *In re* [44,921], 758

Review by Appeals Council

Correa v. Bowen [44,894], 755
Higgs v. Bowen, 994
Reagan v. Secretary of HHS, 994

Severity of Impairment

Bailey v. Sullivan [40,070], 1038
Dixon v. Bowen [36,027], 755
Mateer v. Bowen, 88
Vega v. Bowen, 715
Wilson v. Sullivan, 714

Standards

Adams v. Bowen, 714
Hunt v. Van Cura [44,084], 753

Subjective Pain

Burton v. Bowen, 220
Guzman v. Secretary of HHS [44,725], 629
Hyatt v. Sullivan [35,159], 706, 715
Ludden v. Bowen, 1473
Lynn v. Bowen, 88
Mosteller v. Bowen, 220
Nelson v. Bowen, 994
R., *In re* [45,447], 1565
Smith v. Bowen [43,894], 175
Waters v. Bowen, 571

Substantial Gainful Activity

Brown v. Bowen, 715
DeCarolis v. Secretary of HHS, 1474
Gossett v. Bowen, 88
Guzman v. Secretary of HHS [44,725], 629
Jelinek v. Bowen, 570
Karalfa v. Sullivan [44,732], 630
Magallanes v. Bowen, 995
Rizzo v. HHS, 571
Tepfer v. Secretary of HHS, 714
Thompson v. Sullivan, 995

> Subsidized Employment

Moon v. Bowen [44,612], 334

Suspension of Benefits

Bruse, *In re* [44,921], 758

Termination

Panages v. Bowen, 570
Stratton v. Bowen, 220

> Cessation of Disabilities

Davie v. Sullivan [45,352], 1454
Gormas v. Bowen, 996

Timely Filing of Complaint

Aschettino v. Sullivan, 1474

Vocational Evaluations

DeFrancesco v. Bowen, 220
Wheeler v. Sullivan, 995, 1473

DIVORCE

Cruise v. Cruise, 83
Guthmiller v. Guthmiller, 1571

Effect on Spouse's Benefits

Parker v. Secretary of HHS, 996

ELIGIBILITY

DeMoss v. Heckler, 289

ESTOPPEL AGAINST AGENCY

Bolden v. Bowen, 289

JUDICIAL REVIEW

Finkelstein v. Bowen, 289
Rose v. Bowen, 714
Sharp v. Bowen, 289
Voth v. Bowen, 88

Initiating

Aschettino v. Sullivan, 1474
Hall v. Bowen [44,352], 73

Jurisdiction

Ahghazali v. Secretary of HHS, 220
Bolden v. Bowen, 289
Colon v. HHS, 994
Loyd v. Sullivan, 995
Turner v. Bowen, 88

Practice and Procedure

Hyatt v. Sullivan [35,159], 706, 715
Small v. Secretary of HHS, 1574

MOTHER'S INSURANCE BENEFITS

Pliley v. Sullivan, 1574

Eligibility

Russell v. Heckler, 213

Illegitimate Children

Terrell, *In re* [44,602], 336

NOTICES

Christopher v. Secretary of HHS, 88
Hunt v. Van Cura [44,084], 753
Peck v. Sullivan [44,900], 754

Administrative

Hart v. Bowen [44,467], 197

OVERPAYMENTS

Corr v. Sullivan, 1575
Lamkin v. Bowen [45,128], 1040

Due Process

Sullivan v. Everhart [43,697], 330

Recoupment

Brown v. Bowen [44,787], 754
Chunglo v. Secretary of HHS [45,353], 1454
Connell v. Bowen, 1473
Healea v. Bowen [42,500], 332
Russell v. Heckler, 213
Sullivan v. Everhart [43,697], 330

> Without Fault

Myers v. Bowen, 220
Pliley v. Sullivan, 1574
Swann, *In re* [45,434], 1565

Waiver

Chunglo v. Secretary of HHS [45,353], 1454
Strickland, *In re* [44,861], 757
Sullivan v. Everhart [43,697], 330
Swann, *In re* [45,434], 1565

REPRESENTATIVE PAYEE

Briggs v. Sullivan [44,289], 332, 1039

Misuse of Payments

> Recovery

Holt v. Bowen [44,479], 197, 333

Overpayments

Corr v. Sullivan, 1575

RES JUDICATA

Carver v. Secretary of HHS [44,543], 331
Hart v. Bowen [44,467], 197
Rogerson v. Secretary of HHS, 570

RETIREMENT BENEFITS

Johnson, *In re* [44,351], 77
Rudden v. Rudden, 285

Attachment

Weidner v. Weidner, 215

Earnings Limitation

Brown v. Bowen [44,787], 754
Greenhow v. Secretary of HHS, 88

Eligibility

Eagle v. Sullivan, 996

SURVIVORS' BENEFITS

Duthu v. Sullivan, 1382

Eligibility

Batista v. Sullivan, 1382
Bolden v. Bowen, 289
Davis v. Secretary of HHS, 220
Garcia v. Sullivan, 714
Marcus v. Sullivan [38,704], 627, 1342
Pirus v. Bowen [42,245], 171
Rose v. Bowen, 714
Terrell, *In re* [44,602], 336
Wharton v. Bowen, 715

Illegitimate Children

Garcia v. Sullivan, 714
Luke v. Bowen [43,701], 335, 908
McDowell v. Bowen [44,297], 73
Smith v. Bowen [44,684], 627
Wharton v. Bowen, 715

Prompt Processing

Rose v. Bowen, 714

Sex Discrimination

Batista v. Sullivan, 1382

UNDERPAYMENTS

Sullivan v. Everhart [43,697], 330

WIDOWS' (WIDOWERS') INSURANCE BENEFITS

Poling, *In re* [45,287], 1328, 1445
Strickland, *In re* [44,861], 757

Attachment

Healea v. Bowen [42,500], 332

Disability

Begley v. Sullivan [43,966], 909
Coates v. Bowen, 714
Crowder v. Sullivan [44,893], 756
Farrell v. Sullivan, 994
Finkelstein v. Bowen, 289
Hill v. Sullivan [42,871], 198
Hudson v. Sullivan, 1383
Kier v. Sullivan [45,112], 1038, 1341
Pierre v. Sullivan, 1382
Rizzo v. HHS, 571
Rodriguez, *In re* [45,091], 1043

Eligibility

Begley v. Sullivan [43,966], 909
Coates v. Bowen, 714
Crowder v. Sullivan [44,893], 756
Farrell v. Sullivan, 994
Hill v. Sullivan [42,871], 198
Marcus v. Sullivan [38,704], 627, 1342
Rodriguez, *In re* [45,091], 1043

> Widow of Valid Marriage

Carver v. Secretary of HHS [44,543], 331
Hunter v. Sullivan, 1383
Parker v. Secretary of HHS, 996
Peffley-Warner v. Bowen, 1383
Terrell, *In re* [44,602], 336
Thomas v. Sullivan [42,172], 996

Presumption of Valid Marriage

Hunter v. Sullivan, 1383

SUPPLEMENTAL SECURITY INCOME

APPEALS PROCESS

Appeals Council Review

Correa v. Bowen [44,894], 755
Sorenson v. Bowen, 571

> Time Limits

Su Thi Nguyen v. Sullivan [45,282], 1343

Hearings

> Prompt Processing Requirement

Sharpe v. Sullivan [27,348], 1564

Reconsideration

Key v. Sullivan [44,964], 910

Reopening Decisions

Gonzalez v. Sullivan [42,747], 632
Gutierrez v. Bowen, 220

APPLICATIONS

Refusal to Process

> Res Judicata

Peck v. Sullivan [44,900], 754

ASSETS

Deemed Income

Cervantez v. Sullivan [44,983], 1039, 1474
Rowe, *In re* [45,011], 1042
Tabib v. Bowen [43,692], 199

> Living in Household of Another

Avila, *In re* [45,083], 1042
S., *In re* [45,448], 1565

Homes

Cassidy, *In re* [44,916], 757
S., *In re* [45,448], 1565

Joint Bank Account

Rowe, *In re* [45,011], 1042
Vaitsis, *In re* [45,168], 1345

Limitations

Cassidy, *In re* [44,916], 757

> Life Estate on Land

C., *In re* [44,484], 182
Dixon v. Bowen [44,657], 627

Nonliquidated Property

Cassidy, *In re* [44,916], 757

> Non-Business Income-Producing

Johnson v. Sullivan [44,721], 632

Spouse's Income

Rowe, *In re* [45,011], 1042

Unearned Income

Cervantez v. Sullivan [44,983], 1039, 1474

> Rentals at Less Than Market Value

Rivero v. Bowen [45,383], 1455

ASSIGNMENT

Brinkman v. Rahm [41,131], 995

BENEFITS

Computation

Healea v. Bowen [42,500], 332
Newman v. Sullivan [44,877], 753
Ruppert v. Bowen, 570
S., *In re* [44,655], 632
Walker, *In re* [44,954], 911

Entitlement

Ruppert v. Bowen, 570

Reduction

Lovato, *In re* [45,113], 1043
Walker, *In re* [44,954], 911

Termination

> Retroactive Benefits

S., *In re* [45,448], 1565

CHILD SUPPORT

Gagne v. Bordeleau [44,402], 78
Moore v. Sharp [44,323], 59
Mundt, *In re* [45,288], 1345

DEDUCTIONS

Willis v. Sullivan [43,693], 1041

DISABILITY BENEFITS

Avila, *In re* [45,083], 1042

Compliance with Remand Order

Gidcomb v. Sullivan [45,333], 1453
Hester v. Secretary of HHS [44,571], 332

Delay in Processing

Holman v. Sullivan [24,449], 1564

Denial

Conard v. Bowen, 714
Hammock v. Bowen, 220, 995
Kruger v. Sullivan [45,076], 1040
Ruhl v. Bowen, 714

Determinations

Andres v. Bowen, 570
Hines v. Bowen, 570

Eligibility

Hammock v. Bowen, 220, 995
Thompson v. Secretary of HHS, 1474

> Alcoholism

George v. Sullivan [44,668], 629, 1343
Henshaw v. Bowen, 571
M., *In re* [45,252], 1344
Mark, *In re* [45,003], 1044
Martin v. Sullivan [44,947], 910
Rodgers v. Sullivan [45,073], 1042
Schoolcraft v. Sullivan [45,479], 1564
Wilmer v. Sullivan [44,791], 754, 1343

> Availability for Other Work

Dunn v. Bowen, 1383

> Drug Addiction

Schoolcraft v. Sullivan [45,479], 1564

> Failure to Rehabilitate

Johnson v. Bowen, 88
Sharp v. Bowen, 289

> Medical-Vocational Guidelines

Brooks v. Sullivan, 1382
De La Garza v. Bowen [44,527], 336
George v. Sullivan [44,668], 629, 1343
Harrell v. Bowen, 88
Ruhl v. Bowen, 714

> Mental Disabilities

Champeno v. Sullivan [45,200], 1455
George v. Sullivan [44,668], 629, 1343
M., *In re* [45,252], 1344
McQuiddy v. HHS, 1473
Pagan v. Bowen, 87
R., *In re* [44,590], 336
Vega v. Bowen, 715

> Method of Evaluation

Aviles v. Bowen [44,752], 629

Bailey v. Sullivan [40,070], 1038
Boyd v. Bowen, 715
Campbell, *In re* [44,381], 74
Conard v. Bowen, 714
Day v. Bowen [42,990], 199
Dixon v. Bowen [36,027], 755
Duncan v. Bowen [44,258], 331
Dunn v. Bowen, 1383
George v. Sullivan [44,668], 629, 1343
Han v. Bowen, 1382
Mark, *In re* [45,003], 1044
Sullivan v. Zebley [43,127], 72, 331
Vargas v. Bowen, 715
Wilmer v. Sullivan [44,791], 754, 1343

> Substantial Gainful Activity

B., *In re* [44,515], 200
George v. Sullivan [44,668], 629, 1343
Martin v. Sullivan [44,947], 910
Wilmer v. Sullivan [44,791], 754, 1343

Evidence

Hines v. Bowen, 570
Schoolcraft v. Sullivan [45,479], 1564

> Functional Capacity Assessment

Bartley v. Bowen [44,481], 198
Bryant v. Bowen, 1382
Day v. Bowen [42,990], 199
Gidcomb v. Sullivan [45,333], 1453
Guzman v. Secretary of HHS [44,725], 629
Han v. Bowen, 1382
Harrell v. Bowen, 88
Marcus v. Sullivan [38,704], 627, 1342

> Medical Evidence

Andres v. Bowen, 570
Aviles v. Bowen [44,752], 629
B., *In re* [44,515], 200
Day v. Bowen [42,990], 199
Foster v. Bowen [44,495], 198, 628
Hansley v. Bowen, 571
Hurd v. Bowen [44,863], 756
M., *In re* [45,252], 1344
Ruhl v. Bowen, 714
Santiago v. Bowen [44,946], 908, 1383
Valerio v. Bowen [45,256], 1344
Vargas v. Bowen, 715
York v. Bowen, 88

> Medical Findings

English v. Sullivan [44,535], 334
Santiago v. Bowen [44,946], 908, 1383

> Medical-Vocational Guidelines

Andres v. Bowen, 570
De La Garza v. Bowen [44,527], 336
Harrell v. Bowen, 88
Martin v. Sullivan [44,947], 910
Pagan v. Bowen, 87
Tamez v. Sullivan, 1473
Walker v. Bowen, 714, 1473

> New

Haywood v. Sullivan, 1473
Pierre v. Sullivan, 1382
Tirado v. Bowen [44,372], 74

> Pain

Baker v. Bowen [45,264], 1342
Bartley v. Bowen [44,481], 198
George v. Sullivan [44,668], 629, 1343
Harrell v. Bowen, 88
Marshall v. Sullivan [44,219], 333
Mendoza v. Bowen, 88
Waudby v. Bowen, 996

» Subjective

Foster v. Bowen [44,495], 198, 628
Guzman v. Secretary of HHS [44,725], 629
Hammock v. Bowen, 220, 995
Han v. Bowen, 1382
Ludden v. Bowen, 1473

> Substantial

Alvarez v. Bowen [44,374], 73
Aviles v. Bowen [44,752], 629
Champeno v. Sullivan [45,200], 1455
Conard v. Bowen, 714
Foster v. Bowen [44,495], 198, 628
Hammock v. Bowen, 220, 995
Hester v. Secretary of HHS [44,571], 332
Huddleston v. Secretary of HHS [44,503], 199
Mendoza v. Bowen, 88
Rodgers v. Sullivan [45,073], 1042
Ruhl v. Bowen, 714
Sorenson v. Bowen, 571
Tamez v. Sullivan, 1473
Vargas v. Bowen, 715

> Treating Physician

Baran v. Bowen [44,375], 74
Burkes v. Sullivan [45,386], 1453
De La Garza v. Bowen [44,527], 336
Fenn v. Sullivan [45,277], 1344, 1546
Fogel v. Bowen [45,357], 1455
George v. Sullivan [44,668], 629, 1343
Hammock v. Bowen, 220, 995
Pascual v. Sullivan, 1383
Santiago v. Bowen [44,946], 908, 1383
Sorenson v. Bowen, 571
Vargas v. Bowen, 715

> Vocational Expert Testimony

Fogel v. Bowen [45,357], 1455
George v. Sullivan [44,668], 629, 1343
Marshall v. Sullivan [44,219], 333
Walker v. Bowen, 714, 1473
Wheeler v. Sullivan, 995, 1473
Wilmer v. Sullivan [44,791], 754, 1343

Hearings

Grant v. Sullivan [44,741], 631, 755
Sharpe v. Sullivan [27,348], 1564

> Burden of Proof

Pope v. Bowen, 1473

> Responsibilities of ALJ

Alvarez v. Bowen [44,374], 73
Baker v. Bowen [45,264], 1342
Boyd v. Bowen, 715
Fenn v. Sullivan [45,277], 1344, 1546
Foster v. Bowen [44,495], 198, 628
Haywood v. Sullivan, 1473
Hines v. Bowen, 570
Miller v. Bowen [45,358], 1454
Pascual v. Sullivan, 1383
Stephens, *In re* [45,279], 1309

> Right to Counsel

Alvarez v. Bowen [44,374], 73

Medical-Vocational Guidelines

De La Garza v. Bowen [44,527], 336
Harrell v. Bowen, 88

Mental Disabilities

Champeno v. Sullivan [45,200], 1455
Gidcomb v. Sullivan [45,333], 1453
M., *In re* [45,252], 1344
Pagan v. Bowen, 87
R., *In re* [44,590], 336
Sanchez v. Secretary of HHS, 1383
Sharp v. Bowen, 289

> Concentration and Persistence

Mark, *In re* [45,003], 1044

> Understanding and Memory

Aviles v. Bowen [44,752], 629

Overpayments

> Recoupment

» Waiver

Doe, *In re* [45,377], 1456
Sullivan v. Everhart [43,697], 330
Ward, *In re* [44,948], 911

Prompt Processing

Pugliese v. Bowen [44,735], 630

DISABLED CHILDREN'S BENEFITS

Gagne v. Bordeleau [44,402], 78

Eligibility

Aviles v. Bowen [44,752], 629
Duncan v. Bowen [44,258], 331
Sullivan v. Zebley [43,127], 72, 331

Standards

Aviles v. Bowen [44,752], 629
Campbell, *In re* [44,381], 74
Duncan v. Bowen [44,258], 331
Nash v. Bowen, 1382
Sullivan v. Zebley [43,127], 72, 331

ELIGIBILITY

Henderson, *In re*, 1457
Tabib v. Bowen [43,692], 199

Categorical

> Citizenship Requirements

Ortiz-Tejeda, *In re* [45,007], 1044

Financial Requirements

Cassidy, *In re* [44,916], 757
Lovato, *In re* [45,113], 1043

Income-Producing Property

Johnson v. Sullivan [44,721], 632
Kruger v. Sullivan [45,076], 1040

Residency Requirements

S., *In re* [44,655], 632

EVIDENCE

Henderson, *In re*, 1457

EXEMPTIONS

Schmidt, *In re* [44,949], 910

HEARINGS

Appearance

M., *In re* [45,252], 1344

Due Process

Grant v. Sullivan [44,741], 631, 755

Time Limits

Sharpe v. Sullivan [27,348], 1564

INCOME

Mundt, *In re* [45,288], 1345

Determination

Cervantez v. Sullivan [44,983], 1039, 1474
Gutierrez v. Bowen, 220
Healea v. Bowen [42,500], 332
Jenkins v. Bowen [43,698], 1456
Newman v. Sullivan [44,877], 753
Ruppert v. Bowen, 570

> Pensions

Doe, *In re* [45,377], 1456

Disregards

> Self-Support Plans

Schmidt, *In re* [44,949], 910

In-Kind

Lovato, *In re* [45,113], 1043
S., *In re* [44,655], 632

> Exemptions

Schmidt, *In re* [44,949], 910
Walker, *In re* [44,954], 911

> Rentals at Less Than Market Value

Rivero v. Bowen [45,383], 1455

> Residence with Relative

Rivero v. Bowen [45,383], 1455

Limitations

Dixon v. Bowen [44,657], 627
Lovato, *In re* [45,113], 1043

INTERIM ASSISTANCE

Davenport v. Bowen, 572
Pugliese v. Bowen [44,735], 630
Sharpe v. Sullivan [27,348], 1564

MEDICAID ELIGIBILITY

Darling v. Bowen [42,592], 1019

OVERPAYMENTS

Determination

Buchbinder v. Bowen, 571
Fox v. Bowen, 571

Excess Resources

Buchbinder v. Bowen, 571
Vaitsis, *In re* [45,168], 1345

Recoupment

> Waiver

Buchbinder v. Bowen, 571
Doe, *In re* [45,377], 1456
Fox v. Bowen, 571
Su Thi Nguyen v. Sullivan [45,282], 1343
Sullivan v. Everhart [43,697], 330

> Without Fault Standard

Fox v. Bowen, 571
Su Thi Nguyen v. Sullivan [45,282], 1343

REGULATIONS

Newman v. Sullivan [44,877], 753

REPRESENTATIVE PAYEE

Briggs v. Sullivan [44,289], 332, 1039

STATE SUPPLEMENTARY PROGRAM

Classification

Ruppert v. Bowen, 570

UNDERPAYMENTS

Sullivan v. Everhart [43,697], 330

TAXES

Sansom v. United States, 558

ABATEMENT

Joyce v. Town of Lyman [40,298], 911

COLLECTION

Stewart v. Big Horn County [44,672], 589

INCOME TAXES

Roberts v. IRS (*In re* Roberts) [44,771], 588

Refund Intercept

Anderson v. White [44,689], 593, 1314
Grider v. Cavazos [45,214], 1312
Jones v. Bennett [44,324], 58
Kandlbinder v. Reagen, 986
Tax Refunds, Inc. v. Depp [44,587], 306

PROPERTY TAXES

Abatement

Joyce v. Town of Lyman [40,298], 911

Exemptions

Stewart v. Big Horn County [44,672], 589

SALES TAXES

Osceola v. Florida Dep't of Revenue, 287

SURCHARGES

Association of Community Org. for Reform Now v. City of New Orleans [44,865], 758

TAX FORECLOSURE SALES

Notices

Andre v. Fink [45,184], 1345

TAX SALES

Inadequate Notice

Andre v. Fink [45,184], 1345

Redemption

Andre v. Fink [45,184], 1345

TRUTH IN LENDING

See also CONSUMER

Fidelity Fin. Servs. v. Hicks [44,607], 305

CREDITOR

Identification

> Disclosure

Jackson v. Grant, 1465

DISCLOSURE

Brady v. C.F. Schwartz Motor Co., Inc., 1464
Cox v. 8th St. Auto Sales [45,253], 1311
James v. ITT Fin. Servs. [45,181], 1314
Touset v. Medicredit, Inc. [45,008], 1012

Amount Financed

Mayfield v. Vanguard Sav. & Loan Ass'n [44,586], 305

Annual Percentage Rate

Bryant v. Goldome Credit [44,765], 592
Johnson v. Rocky Top Motors [44,368], 59

Escrow Funds

Therrien v. Resource Fin. Group [43,098], 176, 304

Finance Charges

Czyzowicz v. Dartmouth Plan [45,268], 1312
Jones v. Credithrift of Am. [45,081], 1310

Rebate

> Unearned Interest

Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730

Right to Rescind

Bryant v. Goldome Credit [44,765], 592
Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730
Jones v. Credithrift of Am. [45,081], 1310
Mayfield v. Vanguard Sav. & Loan Ass'n [44,586], 305
Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601], 304

EXEMPTIONS

Adams v. Adams (*In re* Adams) [44,267], 173
Therrien v. Resource Fin. Group [43,098], 176, 304

REFINANCING

Bryant v. Goldome Credit [44,765], 592

REGULATION Z

Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730

RESCISSION

Mayfield v. Vanguard Sav. & Loan Ass'n [44,586], 305
Smith v. Fidelity Consumer Discount [43,229], 728

Home Improvement Loans

Czyzowicz v. Dartmouth Plan [45,268], 1312

Notice of Right

Adams v. Adams (*In re* Adams) [44,267], 173
Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913], 730
Jackson v. Grant, 1465
Jones v. Credithrift of Am. [45,081], 1310

UNEMPLOYMENT COMPENSATION

ADMINISTRATIVE PROCEDURES

Clapper v. Budget Oil Co., 563
Industrial Claims Appeals Office v. Flower Stop Mktg. Corp., 1474
Riddick v. Atlantic Veneer, 716
Simmons v. Traughber [44,611], 338
Taylor v. Steinbacher [44,764], 633
Zimmer v. Seltzer [44,704], 633

Review of Cases

Herbert v. Pennsylvania Unemployment Compensation Bd. of Review [45,159], 221, 1348
Reed v. Labor & Indus. Relations Comm'n [45,088], 1045
Sparks v. Indiana Dep't of Employment & Training Servs. [44,431], 203
Stanley v. Review Bd. of Dep't of Employment & Training Servs. [44,302], 76

ALIENS

Esparza v. Valdez, 89

APPEALS

Cottrell v. Lopeman [41,532], 759
Herbert v. Pennsylvania Unemployment Compensation Bd. of Review [45,159], 221, 1348
Ohio *ex rel.* Lucas v. Steinbacher [44,879], 760
Ramirez v. Board of Review of Dep't of Employment Sec. [44,449], 203
Riddick v. Atlantic Veneer, 716

Constitutionality of Procedures

Johnson v. Employment Sec. Comm'n of N.C. [44,768], 633
Knox v. Administrator, Ohio Bureau of Employment Servs. [44,542], 337
Knox v. Hochman [44,541], 337
Sazon v. Francis [44,943], 912, 1566
Zimmer v. Seltzer [44,704], 633

> Decisions of Record

Madison v. Board of Review [44,796], 759

Jurisdictional Defects

Indiana *ex rel.* Goodman v. Review Bd. of Ind. Dep't of Employment & Training [44,295], 75, 589
Reed v. Labor & Indus. Relations Comm'n [45,088], 1045

Notices

Indiana *ex rel.* Goodman v. Review Bd. of Ind. Dep't of Employment & Training [44,295], 75, 589
Knox v. Administrator, Ohio Bureau of Employment Servs. [44,542], 337
Knox v. Hochman [44,541], 337

Representation

Simmons v. Traughber [44,611], 338

Substantial Evidence

City of Wichita v. Employment Sec. Bd., 1384
Harshaw v. Grace Convalescent Center [44,593], 339
Shannon Eng'g & Constr. v. Employment Sec. Comm'n, 1384
Steward v. Texas Employment Comm'n [44,675], 634

BENEFITS

Taylor v. Unemployment Ins. Appeal Bd., 1475

Amount

Ross v. Pennsylvania Unemployment Compensation Bd. of Review, 997

Computation

Johnson, *In re* [44,351], 77
Pizzolato v. AT&T Technologies, 716
Ross v. Pennsylvania Unemployment Compensation Bd. of Review, 997

Deductions

Johnson, *In re* [44,351], 77
Zemel, *In re* [44,911], 761

Denial

Apodaca, *In re*, 221
Austin v. Berryman [42,895], 89, 996
Billingsley v. Louisiana Office of Employment Sec., 221
Colorado Div. of Employment & Training v. Hewlett, 996
Eckart v. Industrial Claims Appeals Office, 997
Fiskewold v. H.M. Smyth Co., Inc., 716
Frazee v. Illinois Dep't of Employment Sec., 221
Lake v. Labor & Indus. Relations Comm'n, 1575
Madison v. Board of Review [44,796], 759
McDonald's Sherwood Forest v. Department of Employment Sec., 572
Molenda v. Thomsen, 715
Riddick v. Atlantic Veneer, 716
Sallis v. Employment Appeal Bd., 571
Virginia Employment Comm'n v. Gantt, 221

Discrimination

Pierre v. Administrator, La. Office of Employment Sec. [45,175], 1346

Extended Compensation

Ross v. Pennsylvania Unemployment Compensation Bd. of Review, 997

Reduction

Zemel, *In re* [44,911], 761

Reimbursement

Sioux City Brick & Tile Co. v. Employment Appeal Bd., 1575

Setoffs

Johnson, *In re* [44,351], 77

> Pensions

Zemel, *In re* [44,911], 761

DISQUALIFICATION

Johnson v. Utah Dep't of Employment Sec., 1475
Pizzolato v. AT&T Technologies, 716

Denial Period

Pierre v. Administrator, La. Office of Employment Sec. [45,175], 1346
South Dakota Stockgrowers Ass'n, Inc. v. Holloway, 571

Failure to Accept Job Referral

Boyd v. Department of Employment Sec. [44,570], 338

Failure to Accept Work

A.P. Parts Co. v. Bureau of Employment Servs., 1384
Dorisma v. Florida Unemployment Appeals Comm'n, 716
Frazee v. Illinois Dep't of Employment Sec., 221
Johnson v. Virginia Employment Comm'n, 1475
New v. Unemployment Compensation Bd. of Review, 716
Thomas v. Pennsylvania Unemployment Compensation Bd. of Review, 997

Falsified Application

Gilbert v. Review Bd. of Ind. Dep't of Employment Training & Servs. [44,293], 75
Whitney v. Dep't of Employment Sec., 1575

Insubordination

Favreau v. Department of Employment & Training, 571
Shannon Eng'g & Constr. v. Employment Sec. Comm'n, 1384

> Vulgar Language

Deever v. Hawkeye Window Cleaning, Inc., 1475
French v. Whitfield [44,962], 912
H., *In re* [44,718], 634
Lockhart, *In re* [45,162], 1348

Labor Disputes

A.P. Parts Co. v. Bureau of Employment Servs., 1384
Four Queens, Inc. v. Nevada Employment Sec. Dep't, Bd. of Review, 221
Gratta v. Unemployment Compensation Bd. of Review, 290

Misconduct

Adams v. Ward [45,176], 1347
Allen v. Hawes, 290
Chiles Offshore, Inc. v. Administrator, Dep't of Employment Sec., 1475
Deever v. Hawkeye Window Cleaning, Inc., 1475
Favreau v. Department of Employment & Training, 571
Henson v. Washington Employment Sec. Dep't, 1475
Hutchins v. Kentucky Unemployment Ins. Comm'n [44,884], 760
Irvine, *In re* [45,111], 1046
Johnson v. Louisiana Office of Employment Sec., 89
Lockhart, *In re* [45,162], 1348
McDonald's Sherwood Forest v. Department of Employment Sec., 572
Pierre v. Administrator, La. Office of Employment Sec. [45,175], 1346
Sazon v. Francis [44,943], 912, 1566
Sensley v. Administrator, Office of Employment Sec., 1475
Shannon Eng'g & Constr. v. Employment Sec. Comm'n, 1384
Siler v. Illinois Dep't of Employment Sec. [45,373], 1457
Stoval v. Russellville Health Care [45,439], 1567
Sullivan v. Michigan Employment Sec. Comm'n [45,291], 1347
Turley v. Board of Review of W. Va. Dep't of Employment Sec. [44,897], 760

> Absenteeism

Ames v. Employment Appeal Bd., 715
Frank v. Unemployment Compensation Bd. of Review, 290
Meulen v. Review Bd. of Ind. Employment Sec. Div. [45,399], 1457
Neal v. United States Postal Serv. [45,124], 1046
New v. Unemployment Compensation Bd. of Review, 716
Sallis v. Employment Appeal Bd., 571
Shields v. Sumner Mfg. [45,221], 1348
Sparks v. Indiana Dep't of Employment & Training Servs. [44,431], 203

> Commission of Felony

Frank v. Unemployment Compensation Bd. of Review, 290

> False Statements

F., *In re* [44,661], 634

> Insolence

Apodaca, *In re*, 221
Dorisma v. Florida Unemployment Appeals Comm'n, 716
French v. Whitfield [44,962], 912
South Dakota Stockgrowers Ass'n, Inc. v. Holloway, 571

> Negligence

Foster v. Gatson, 997
Harshaw v. Grace Convalescent Center [44,593], 339

> Pretermination Warning

H., *In re* [44,718], 634
Jensen v. Mary Lanning Memorial Hosp., 996
Vander Laan v. Mulder, 997

> Rule Violation

City of Wichita v. Employment Sec. Bd., 1384
Jensen v. Mary Lanning Memorial Hosp., 996
Keay v. Pennsylvania Unemployment Compensation Bd. of Review, 89
Lawrence v. Kentucky Unemployment Ins. Comm'n [45,059], 1046
Meulen v. Review Bd. of Ind. Employment Sec. Div. [45,399], 1457
New v. Unemployment Compensation Bd. of Review, 716
Parsons v. Administrator, Ohio Bureau of Employment Servs. [45,477], 1566
Rias v. Department of Employment Sec. [45,036], 1045, 1384
Virginia Employment Comm'n v. Gantt, 221
Virginia Employment Comm'n v. Sutphin, 716

> Tardiness

F., *In re* [44,661], 634
Herbert v. Pennsylvania Unemployment Compensation Bd. of Review [45,159], 221, 1348
Nash v. Overnite Transp. Co. [44,599], 339

> Theft

Lawrence v. Kentucky Unemployment Ins. Comm'n [45,059], 1046

Suspension

Sensley v. Administrator, Office of Employment Sec., 1475

Voluntarily Leaving Without Good Cause

Arteaga v. Industrial Claim Appeals Office [38,764], 1471
Banks v. Elledge, 89
Barnes v. Singer Co., 221
Clarke v. North Detroit Gen. Hosp., 1384
Colorado Div. of Employment & Training v. Hewlett, 996
Dickson v. Thousand Trails Resorts [44,582], 338
Eckart v. Industrial Claims Appeals Office, 997
Fiskewold v. H.M. Smyth Co., Inc., 716
Flannery v. Pennsylvania Unemployment Compensation Bd. of Review, 572
Frei v. Pennsylvania Unemployment Compensation Bd. of Review, 89
Kralj v. Florida Unemployment Appeals Comm'n, 221
Mississippi Employment Security Comm'n v. Pulphus, 221
Molenda v. Thomsen, 715
Monaco v. Pennsylvania Unemployment Compensation Bd. of Review, 1474
New v. Unemployment Compensation Bd. of Review, 716
Olson v. Iowa Employment Appeal Bd. [45,009], 1045
Peelman v. Review Bd. of Ind. Employment Sec. Div. [44,299], 76
Pettypool v. Department of Economic Sec. [45,015], 1044
Rasdall v. Kentucky Unemployment Ins. Comm'n [44,063], 204
Rodgers v. Department of Employment Sec., 1384
Shohatee v. Caucus Club [44,600], 339
Smith v. Washington Dep't of Employment Sec., 1475
Steward v. Texas Employment Comm'n [44,675], 634
Thomas v. Department of Employment & Training Serv., 1384
Turley v. Board of Review of W. Va. Dep't of Employment Sec. [44,897], 760
Welsh v. Review Bd. of Ind. Employment Sec. Div. [44,423], 203
Wills v. Employment Appeal Bd., 1474
Winder v. Review Bd. of Ind. Employment Sec. Div. [44,304], 76

ELIGIBILITY

Lee v. Job Serv. N.D., 715
Ohio *ex rel.* Lucas v. Steinbacher [44,879], 760
Pizzolato v. AT&T Technologies, 716
Taylor v. Unemployment Ins. Appeal Bd., 1475
Zimmer v. Seltzer [44,704], 633

Ability to Work

Wills v. Employment Appeal Bd., 1474

Adjustment of Hours

Banks v. Elledge, 89
Pettypool v. Department of Economic Sec. [45,015], 1044

Available for Full-Time Work

Alcott v. Board of Review of Okla. Employment Sec. Comm'n [44,494], 204
Beckman, *In re*, 221
Daly, *In re* [44,544], 340

Covered Employment

Arteaga v. Industrial Claim Appeals Office [38,764], 1471
Billingsley v. Louisiana Office of Employment Sec., 221
Caledonian Record v. Department of Employment & Training, 716
Locke v. Longacre, 572
Work-A-Day of Nashua, Inc., *In re*, 1384

Discharge

Allen v. Hawes, 290
Clarke v. North Detroit Gen. Hosp., 1384
Fiskewold v. H.M. Smyth Co., Inc., 716
French v. Whitfield [44,962], 912
Harshaw v. Grace Convalescent Center [44,593], 339
Irvine, *In re* [45,111], 1046
Lockhart, *In re* [45,162], 1348
Neal v. United States Postal Serv. [45,124], 1046
Parsons v. Administrator, Ohio Bureau of Employment Servs. [45,477], 1566
Rias v. Dep't of Employment Sec. [45,036], 1045, 1384
Shannon Eng'g & Constr. v. Employment Sec. Comm'n, 1384
Siler v. Illinois Dep't of Employment Sec. [45,373], 1457
Stanley v. Review Bd. of Dep't of Employment & Training Servs. [44,302], 76
Turley v. Board of Review of W. Va. Dep't of Employment Sec. [44,897], 760
Winder v. Review Bd. of Ind. Employment Sec. Div. [44,304], 76

> Good Cause

Adams v. Ward [45,176], 1347
Apodaca, *In re*, 221
Chiles Offshore, Inc. v. Administrator, Dep't of Employment Sec., 1475
Deever v. Hawkeye Window Cleaning, Inc., 1475
F., *In re* [44,661], 634
Frank v. Unemployment Compensation Bd. of Review, 290
Gilbert v. Review Bd. of Ind. Dep't of Employment Training & Servs. [44,293], 75
H., *In re* [44,718], 634
Hutchins v. Kentucky Unemployment Ins. Comm'n [44,884], 760
Jensen v. Mary Lanning Memorial Hosp., 996
Johnson v. Utah Dep't of Employment Sec., 1475
Keay v. Pennsylvania Unemployment Compensation Bd. of Review, 89
Meulen v. Review Bd. of Ind. Employment Sec. Div. [45,399], 1457
Nash v. Overnite Transp. Co. [44,599], 339
Rias v. Department of Employment Sec. [45,036], 1045, 1384
Sazon v. Francis [44,943], 912, 1566
Shields v. Sumner Mfg. [45,221], 1348
Sparks v. Indiana Dep't of Employment & Training Servs. [44,431], 203
Virginia Employment Comm'n v. Sutphin, 716

Labor Disputes

A.P. Parts Co. v. Bureau of Employment Servs., 1384
Ames v. Employment Appeal Bd., 715
Four Queens, Inc. v. Nevada Employment Sec. Dep't, Bd. of Review, 221
Gratta v. Unemployment Compensation Bd. of Review, 290

Leave of Absence

Shohatee v. Caucus Club [44,600], 339

Licensed Professionals

Clarke v. North Detroit Gen. Hosp., 1384

Migrants

Yeska v. Wisconsin [44,357], 70

Part-Time Workers

Billingsley v. Louisiana Office of Employment Sec., 221

Pregnant Claimants

Fragmin v. Gatson, 997
Wills v. Employment Appeal Bd., 1474

Refusal to Accept Employment

> Good Cause

Beckman, *In re*, 221
Boyd v. Department of Employment Sec. [44,570], 338
Frazee v. Illinois Dep't of Employment Sec., 221
Johnson v. Virginia Employment Comm'n, 1475
Rasdall v. Kentucky Unemployment Ins. Comm'n [44,063], 204
Thomas v. Pennsylvania Unemployment Compensation Bd. of Review, 997

Reporting Requirements

Whitney v. Dep't of Employment Sec., 1575

Retirees

Boyd v. Department of Employment Sec. [44,570], 338
Flannery v. Pennsylvania Unemployment Compensation Bd. of Review, 572
Johnson, *In re* [44,351], 77

Search for Work

Beckman, *In re*, 221

Seasonal Laborer

Yeska v. Wisconsin [44,357], 70

Self-Employed Workers

Daly, *In re* [44,544], 340
Locke v. Longacre, 572

Standards

> Wage Credits

Pierre v. Administrator, La. Office of Employment Sec. [45,175], 1346
Poola v. Unemployment Compensation Bd. of Review, 289
USX Corp. v. Pennsylvania Unemployment Compensation Bd. of Review, 89

Suspension

Sensley v. Administrator, Office of Employment Sec., 1475

Voluntarily Leaving

Barnes v. Singer Co., 221
Clarke v. North Detroit Gen. Hosp., 1384
Monaco v. Pennsylvania Unemployment Compensation Bd. of Review, 1474
Sievers v. Unemployment Compensation Bd. of Review, 290
Smith v. Washington Dep't of Employment Sec., 1475
Winder v. Review Bd. of Ind. Employment Sec. Div. [44,304], 76

> Choice of Being Fired

Employment Sec. Comm'n of Wyo. v. Western Gas Processors [45,450], 1566
Flannery v. Pennsylvania Unemployment Compensation Bd. of Review, 572
Pettypool v. Department of Economic Sec. [45,015], 1044

> Good Cause

Colorado Div. of Employment & Training v. Hewlett, 996
Fiskewold v. H.M. Smyth Co., Inc., 716
Mississippi Employment Security Comm'n v. Pulphus, 221
Molenda v. Thomsen, 715
Redman Homes, Inc. v. Employment Div., 997
Rodgers v. Department of Employment Sec., 1384
Rooney v. Employment Appeal Bd., 1474
South Dakota Stockgrowers Ass'n, Inc. v. Holloway, 571
Southwest Wyo. Rehabilitation Center v. Employment Sec. Comm'n of Wyo. [45,250], 1346
Welsh v. Review Bd. of Ind. Employment Sec. Div. [44,423], 203

» Change in Terms of Employment

Banks v. Elledge, 89
Dehmel v. Employment Appeal Bd., 89
Employment Sec. Comm'n of Wyo. v. Western Gas Processors [45,450], 1566
Olson v. Iowa Employment Appeal Bd. [45,009], 1045

Pettypool v. Department of Economic Sec. [45,015], 1044
Rasdall v. Kentucky Unemployment Ins. Comm'n [44,063], 204

»Discrimination

Curry v. Gatson, 89

»Domestic Problems

Shohatee v. Caucus Club [44,600], 339

»Fault of Employer

Curry v. Gatson, 89
Dehmel v. Employment Appeal Bd., 89
Glenn v. Oklahoma Employment Sec. Comm'n, 1475
Kralj v. Florida Unemployment Appeals Comm'n, 221
Peelman v. Review Bd. of Ind. Employment Sec. Div. [44,299], 76
Randolph v. New Mexico Employment Sec. Dep't, 715
Steward v. Texas Employment Comm'n [44,675], 634
Thomas v. Department of Employment & Training Serv., 1384
Wills v. Employment Appeal Bd., 1474

»Health Reasons

Glenn v. Oklahoma Employment Sec. Comm'n, 1475
Lake v. Labor & Indus. Relations Comm'n, 1575
Steward v. Texas Employment Comm'n [44,675], 634

»Leaving to Accept Other Employment

Dickson v. Thousand Trails Resorts [44,582], 338

»Liberal Construction

Flannery v. Pennsylvania Unemployment Compensation Bd. of Review, 572

»Pregnancy

Fragmin v. Gatson, 997

»Religious Beliefs

Austin v. Berryman [42,895], 89, 996
Randolph v. New Mexico Employment Sec. Dep't, 715

»Relocation of Spouse

Austin v. Berryman [42,895], 89, 996
Frei v. Pennsylvania Unemployment Compensation Bd. of Review, 89
Fulton v. Commonwealth of Pa. Unemployment Compensation Bd. of Review, 716

»Sexual Advances

Curry v. Gatson, 89
Tedesco Mfg. Co., Inc. v. Unemployment Compensation Bd. of Review, 89

»Unavailability of Work

Dehmel v. Employment Appeal Bd., 89

FEDERAL-STATE UNEMPLOYMENT COMPENSATION

Esparza v. Valdez, 89

FRAUD

Whitney v. Dep't of Employment Sec., 1575

Recoupment

Dockery v. Traughber [45,272], 1347

HEARINGS

Industrial Claims Appeals Office v. Flower Stop Mktg. Corp., 1474
Philadelphia Elec. Co. v. Pennsylvania Unemployment Compensation Bd. of Review, 1475

Examination of Files

Cottrell v. Lopeman [41,532], 759

Interpreter

Ramirez v. Board of Review of Dep't of Employment Sec. [44,449], 203

Issuance of Subpoenas

Beamer v. Unemployment Compensation Bd. of Review, 89

Notices

Carter v. Review Bd. of Ind. Dep't of Employment & Training Servs. [44,426], 202
Madison v. Board of Review [44,796], 759
Simmons v. Traughber [44,611], 338

Presumptions

Knox v. Administrator, Ohio Bureau of Employment Servs. [44,542], 337
Knox v. Hochman [44,541], 337

Reopening

Ohio *ex rel.* Lucas v. Steinbacher [44,879], 760

Representation

Meulen v. Review Bd. of Ind. Employment Sec. Div. [45,399], 1457
Simmons v. Traughber [44,611], 338

Subpoena of Adverse Witness

Beamer v. Unemployment Compensation Bd. of Review, 89

Telephone Hearings

Cottrell v. Lopeman [41,532], 759
Kelly v. Lopeman [41,535], 588

RECOUPMENT

Stoval v. Russellville Health Care [45,439], 1567

Back Pay

Sioux City Brick & Tile Co. v. Employment Appeal Bd., 1575

Overpayments

> Equity and Good Conscience

Cassidy v. Adams, 715

> Hearings

Cassidy v. Adams, 715

> Notice

Dockery v. Traughber [45,272], 1347

> Readjustment Allowance

Cassidy v. Adams, 715

> Restitution

Dockery v. Traughber [45,272], 1347

> Waiver

Dockery v. Traughber [45,272], 1347

Untimely Appeal

Silva v. Department of Employment Sec. [45,406], 1550

TERMINATION

Vander Laan v. Mulder, 997

Appeal Rights

Stoval v. Russellville Health Care [45,439], 1567

Hearings

Taylor v. Steinbacher [44,764], 633

TRADE READJUSTMENT ASSISTANCE ACT

Eligibility

Gratta v. Unemployment Compensation Bd. of Review, 290
Hurley v. Board of Review of the Indus. Comm'n of Utah [44,383], 75
International Union, UAW v. Dole [44,447], 201, 758, 1346

Notice

International Union, UAW v. Dole [44,447], 201, 758, 1346

VACATION ALLOWANCE

Dickson v. Thousand Trails Resorts [44,582], 338
Poola v. Unemployment Compensation Bd. of Review, 289

UNIONS

See EMPLOYMENT, EMPLOYMENT DISCRIMINATION

URBAN RENEWAL

See also HOUSING, RELOCATION

DISCRIMINATION

Houston v. City of Cocoa [44,272], 1445

REDEVELOPMENT PROJECTS

Connelly v. Springfield Redevelopment Auth. [44,389], 66

REPLACEMENT HOUSING

Connelly v. Springfield Redevelopment Auth. [44,389], 66
Project B.A.S.I.C. v. Kemp [45,266], 1329, 1470

VETERANS

See MILITARY

WELFARE

See also AID TO FAMILIES WITH DEPENDENT CHILDREN, FOOD PROGRAMS, MEDICAID, MEDICAL ASSISTANCE PROGRAMS, SOCIAL SECURITY PROGRAMS, SUPPLEMENTAL SECURITY INCOME

ABUSE OF RECIPIENTS

Ocasio v. City of Lawrence [44,869], 763

ADEQUACY OF BENEFITS

Randolph v. Contra Costa County [45,223], 1353

ADMINISTRATION

Turner v. City of New Orleans [42,804], 1569

Appealability of State Commissioner's Decision

Strobhar v. Pennsylvania Dep't of Pub. Welfare, 572

Application of Court Decisions to All Records

Illinois *ex rel.* Browning v. Melton, 572
Peppers v. Barry [43,861], 572, 726

Duty to Inform Recipients of Rights

Berg v. Gardebring [43,866], 205, 1048
Gardner v. Magnant [44,430], 205
Illinois State Bar Ass'n Ethics Opinion re Conflict of Interest, *In re* [44,726], 585
Matheny v. Pratt [44,728], 638
Shenigo v. Cohen [44,438], 206
Windley v. Department of Social Servs. [45,265], 1354

Hearings

Peppers v. Barry [43,861], 572, 726

Negative Action Reviews

Lentz v. McMahon [35,114], 913

Promulgation of Rules and Regulations

Esquivel v. McMahon [44,171], 342
Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493], 205

Revision of Programs

Chase v. Ives [45,240], 1355
Doe v. Department of Pub. Welfare [45,284], 1335
Randolph v. Contra Costa County [45,223], 1353

Rulemaking

Grant v. Cuomo, 217

ALCOHOLICS

Jeffords v. Department of Human Servs. [43,951], 1569

Eligibility

Jones v. Thompson [44,967], 914

APPLICATION PROCEDURES

Maine AFDC Advisory Council v. Lyng [44,738], 599
Robinson v. Grinker [42,952], 208

ASSETS

Cameron, *In re* [44,742], 642
Perkins v. Florida Dep't of Health & Rehabilitative Servs., 290

Child Support Payments

Baylor v. New Jersey Dep't of Human Servs. [44,981], 1049, 1352

Limitations

Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640

AVAILABLE INCOME

Beaton v. Thompson [44,989], 912
Faretra v. Caniono-Siegrist [44,976], 914
Lewis v. Pennsylvania Dep't of Pub. Welfare, 572
Mitchell v. Perales [44,363], 72

BENEFITS

Levels

Guidotti v. County of Yolo [40,727], 1459
Petitions for Rulemaking N.J.A.C. 10:82-1.2 & 10:85-4.1, *In re* [43,465], 1567
Poverty Resistance Center v. Hart [40,263], 1049
Randolph v. Contra Costa County [45,223], 1353

CHILD SUPPORT

Alaska Child Support Enforcement v. Gammons, 707
Baylor v. New Jersey Dep't of Human Servs. [44,981], 1049, 1352
Brown v. McMahon [43,812], 1350
Carelli v. Howser [44,746], 594
Forbes v. White [45,048], 1048
Ledbetter v. Wilson [44,722], 640
Myers v. Director, Mich. Dep't of Social Servs. [45,172], 1353
Schwendeman v. Ives [45,421], 1567
Shenigo v. Cohen [44,438], 206

Collection

B., *In re* [45,094], 1051
Bennett v. White [27,044], 635, 1351
Brinkley v. Early [45,345], 1352
Brown v. Ledbetter [41,201], 761, 1438
Cowling v. Barry [43,831], 78
Danforth v. Maine [45,237], 1355
Department of Pub. Aid v. Newburg, 561
Department of Social Servs. v. Brewer, 1385
Doe v. Aiello [45,127], 1048
Dube, *In re* [44,496], 209
Ecoff v. Washington State Dep't of Social & Health Servs. [45,047], 1440
Esquivel v. McMahon [44,171], 342
Gardner v. Magnant [44,430], 205
Sampson County Child Support Enforcement Agency v. Bolton [44,617], 222, 309
Sheffield v. Coler [44,547], 340, 1047

> Assignment

Cassell v. Flaherty [45,398], 1439
Ellis v. Carlton [44,767], 641
Gagne v. Bordeleau [44,402], 78
Mundt, *In re* [45,288], 1345
Overbey v. McBride [43,483], 594
Pray v. Iowa Dep't of Human Servs., 222
Zeien v. Palmer [44,729], 637

Reduction for Welfare Recipients

Cowling v. Barry [43,831], 78

CHILD WELFARE SERVICES

H. v. Department of Health & Rehabilitative Servs. [44,724], 589
H., J., *In re*, 566

Eligible to Receive After Age 18

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493], 205

CHORE SERVICES GRANT

King v. North Carolina Dep't of Human Resources [43,842], 97

CLOTHING ALLOWANCE

Boggs v. Yeutter [44,960], 897
Massachusetts Title IV-A State Plan Amendment, *In re* [44,749], 767

COMPUTATION

Turner v. Perales [41,234], 204

COST-OF-LIVING ADJUSTMENTS

Guidice v. Jackson [44,883], 765, 1458

DRUG ADDICTS

Jeffords v. Department of Human Servs. [43,951], 1569

Eligibility

Jones v. Thompson [44,967], 914

ELIGIBILITY

Doe v. Department of Pub. Welfare [45,284], 1335

Cohabitation

D., *In re* [44,666], 643

Conditional

Hintz v. Dane County [44,469], 209

EMANCIPATED MINORS

Connecticut v. Sanchez [45,370], 1460

EMERGENCY ASSISTANCE

Coker v. Bowen, 1378
Phillips v. Pennsylvania Hous. Fin. Agency, 217

AFDC Recipients

Deck v. Michael [44,594], 341
Dorman v. Eichler [45,327], 1461
Savage v. Aronson [44,743], 642, 1354

Diversion of Previous Grant

Martel, *In re* [45,346], 1459

Eviction Prevention

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493], 205

Funding Allocation Terminations

Randolph v. Contra Costa County [45,223], 1353

Prompt Processing

Helms v. Essex County Div. of Welfare [44,482], 208

Recoupment

Martel, *In re* [45,346], 1459

Restrictive Interpretation

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493], 205
Martel, *In re* [45,346], 1459

Section 1983

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493], 205

Termination

Williams v. Department of Human Servs. [44,944], 914, 997

Utility Termination

Deck v. Michael [44,594], 341
P., *In re* [44,734], 642

FRAUD

Frank v. Unemployment Compensation Bd. of Review, 290
New Jersey v. Mickens, 1476

Evidence

Ocasio v. City of Lawrence [44,869], 763

Restitution

Pennsylvania Dep't of Pub. Welfare v. Davenport [43,294], 1548
Pennsylvania Dep't of Pub. Welfare v. Johnson-Allen [42,156], 172

FUEL ALLOWANCE

DeAllaume v. Perales [44,376], 77
McMullen v. Perales [44,356], 77

GENERAL ASSISTANCE

Organ v. Dolan [42,883], 641

Applications

Robinson v. Grinker [42,952], 208

> Discouragement

Mitchell v. Adams County [45,161], 1357

Benefit Levels

Guidotti v. County of Yolo [40,727], 1459
Petitions for Rulemaking N.J.A.C. 10:82-1.2 & 10:85-4.1, *In re* [43,465], 1567
Poverty Resistance Center v. Hart [40,263], 1049
Randolph v. Contra Costa County [45,223], 1353

Eligibility

Jones v. Thompson [44,967], 914

> AFDC Recipient Eligibility

Faretra v. Caniono-Siegrist [44,976], 914

> Conditions

Doe v. Department of Pub. Welfare [45,284], 1335
Hintz v. Dane County [44,469], 209

> Due Process

Mitchell v. Adams County [45,161], 1357

> Employable Persons

Hintz v. Dane County [44,469], 209
Mammenga v. Minnesota Dep't of Human Servs. [44,532], 913

> Sanctions

Hintz v. Dane County [44,469], 209

> Standards

Mammenga v. Minnesota Dep't of Human Servs. [44,532], 913

> Suspension Procedure

Autman, *In re* [44,487], 210

> Work Requirements

Autman, *In re* [44,487], 210

» Willingness to Work

Hintz v. Dane County [44,469], 209

Emergency Assistance

Williams v. Department of Human Servs. [44,944], 914, 997

Employable Persons

Mammenga v. Minnesota Dep't of Human Servs. [44,532], 913

Grant Levels

Poverty Resistance Center v. Hart [40,263], 1049

Income

> SSI Recipient in Household

Faretra v. Caniono-Siegrist [44,976], 914

Recoupment

> Child Support

Florida Dep't of Health & Rehabilitative Servs. v. D'Andrea, 716

Reimbursement

Toney v. Department of Pub. Welfare, 998

Restaurant Allowance

Taylor v. Perales [45,169], 1356

Shelter Allowance

> Temporary Shelter Assistance

Caples v. Yeutter [44,577], 314, 1017
Williams v. Department of Human Servs. [44,944], 914, 997

Termination

> Basis

Williams v. Department of Human Servs., 914, 997

> Notice

Ortiz v. Eichler [35,980], 1350

Unemployables

Hintz v. Dane County [44,469], 209

Work Requirements

Autman, *In re* [44,487], 210

HEARINGS

Burden of Proof

Strong, *In re* [44,891], 766

Evidence

Myers v. Director, Mich. Dep't of Social Servs. [45,172], 1353

Fair Hearing Procedures

McIntosh v. Commissioner, Me. Dep't of Human Servs. [43,953], 207

Notice

King v. North Carolina Dep't of Human Resources [43,842], 97

Prompt Processing

Peppers v. Barry [43,861], 572, 726

Representation

King v. North Carolina Dep't of Human Resources [43,842], 97

Transcripts

Schulz v. North Dakota Dep't of Human Servs. [45,391], 1433

HOME RELIEF

Matheny v. Pratt [44,728], 638

HOUSING

National Coalition for the Homeless v. VA [43,806], 1378

INCOME DISREGARDS

P., *In re* [44,734], 642

Loans

Andrade v. Bowen [44,071], 762
T., *In re* [44,626], 643

LUMP SUM PAYMENTS

Goldring v. Department of Human Resources [44,793], 766
Hamilton v. Vigo County Dep't of Pub. Welfare [44,690], 640
McIntosh v. Commissioner, Me. Dep't of Human Servs. [43,953], 207
Tennessee Dep't of Human Servs. Reconsideration Hearing, *In re* [44,445], 210

OVERPAYMENTS

F., *In re* [44,580], 343

Recoupment

Campos v. Flaherty [44,633], 341
English v. Rubin [44,386], 77
Jackson v. Rhode Island Dep't of Human Servs. [45,372], 1461
Lentz v. McMahon [35,114], 913
McLaughlin v. Canino-Siegrist [44,867], 1051
Myrick v. Commissioner, Dep't of Human Servs. [44,719], 640
Powers v. Department of Social Servs., 1385
Sorenson v. Pine County Welfare Bd. [45,241], 1356

> Administrative Error

Minor v. Adult & Family Servs. Div. [45,039], 1049

PENSION PROGRAMS

Buck v. Department of Pub. Welfare, 1575

POOR RELIEF

Turner v. City of New Orleans [42,804], 1569

PREGNANCY

O., *In re* [44,999], 916

PRIVACY

Hintz v. Dane County [44,469], 209

RECOUPMENT

Child Support

Connecticut v. Sanchez [45,370], 1460
Department of Pub. Aid v. Newburg, 561
Illinois *ex rel.* Browning v. Melton, 572
Minnesota *ex rel.* Miller v. Miller, 1385
New Hampshire v. Dionne, 572

> Noncustodial Parent

Dube, *In re* [44,496], 209
Fenton v. Miller [44,882], 766

Overpayments

Campos v. Flaherty [44,633], 341
Childs v. Essex County Div. of Welfare, 1385
Jackson v. Rhode Island Dep't of Human Servs. [45,372], 1461
Lentz v. McMahon [35,114], 913
McLaughlin v. Canino-Siegrist [44,867], 1051
Minor v. Adult & Family Servs. Div. [45,039], 1049
Powers v. Department of Social Servs., 1385
Robinson v. Flaherty, 290
Thorsen v. Minnesota [44,521], 342

Tax Refund

English v. Rubin [44,386], 77

REIMBURSEMENT

Idaho Dep't of Health & Welfare *ex rel.* Bowler v. Bowler, 1476

RELATIVE RESPONSIBILITY

Connecticut v. Sanchez [45,370], 1460

RENT ALLOWANCE

B., *In re* [45,001], 915

RESIDENCY REQUIREMENTS

Eddleman v. Center Township of Marion County, 1476

RESTAURANT ALLOWANCE

Taylor v. Perales [45,169], 1356

SHELTER ALLOWANCE

Adequacy

Jiggetts v. Perales [43,124], 765, 1568
Nidor v. Center Township [44,298], 79

Maximum Allowance

Nidor v. Center Township [44,298], 79
Williams v. Department of Human Servs. [44,944], 914, 997

Mortgage Payments

T., *In re* [44,626], 643

Restrictions

T., *In re* [44,626], 643

Terminations

Burlington County Welfare Bd. v. B. [44,432], 209

SOCIAL SECURITY NUMBER

Doe v. Department of Pub. Welfare [45,284], 1335

STANDARD OF NEED

Petitions for Rulemaking N.J.A.C. 10:82-1.2 & 10:85-4.1, *In re* [43,465], 1567

STEPPARENT RULE

Montell v. Washington Dep't of Social & Health Servs., 998

STUDENTS

Danner v. Division of Family Servs., 998
Mammenga v. Minnesota Dep't of Human Servs. [44,532], 913

TITLE XX

King v. North Carolina Dep't of Human Resources [43,842], 97

TRANSPORTATION BENEFITS

Burrows, *In re* [44,975], 914

UTILITY GRANTS

Rand, *In re* [44,740], 626

Energy Assistance

Alexander v. Division of Community Servs., 564
DeAllaume v. Perales [44,376], 77
Litzinger v. Indiana Dep't of Pub. Welfare [44,470], 180
Mitchell v. Perales [44,363], 72

VENDOR PAYMENTS

Litzinger v. Indiana Dep't of Pub. Welfare [44,470], 180
Organ v. Dolan [42,883], 641

WORK INCENTIVE PROGRAM

Crary v. Department of Social Servs. [45,402], 1459
Windley v. Department of Social Servs. [45,265], 1354

Deregistration

> Notices

Weyburn v. Florida Dep't of Health & Rehabilitative Servs., 90

Sanctions

Boettger v. Secretary of HHS [42,866], 638, 1349
Kronquist v. Goodrich [45,344], 1458

WORK REQUIREMENTS

Carter v. Ives [45,046], 1461

WOMEN'S RIGHTS

Henne v. Wright, 711
Women's Equity Action League v. Cavazos, 986

ABUSE STATUTES

Antonellis v. Justices of the Brighton Dist. Court [45,417], 1551
Oregon *ex rel.* Wardell v. Del Langdon [45,166], 1316
Smith v. Superior Court of Ariz. [44,715], 594

Procedures

> Constitutionality

Blair v. Blair [44,902], 734

BATTERED WOMEN

Antonellis v. Justices of the Brighton Dist. Court [45,417], 1551
R., *In re* [44,569], 314

Access to Courts

Bates v. Bates [45,397], 1439
Smith v. Superior Court of Ariz. [44,715], 594

Legal Options

Czachorowski v. Degenhart [44,099], 1551
Oregon *ex rel.* Wardell v. Del Langdon [45,166], 1316
Smith v. Superior Court of Ariz. [44,715], 594
Valentine v. Wroten [45,433], 1551

Shelters

Arizona v. Spano [44,443], 179
Blair v. Blair [44,902], 734
Caples v. Yeutter [44,577], 314, 1017
Doe v. City of Butler, Pa. [44,660], 611, 1573
Safehouse of Bullhead City v. Zellner [45,119], 1013, 1316
YMCA of Oak Ridge v. Blair [45,019], 1316

Welfare Benefit Programs

Caples v. Yeutter [44,577], 314, 1017

WORKER'S COMPENSATION

APPEALS

Challberg v. Denny's Restaurant [45,057], 1015
Robinson v. Sprinkle Masonry, Inc. [45,197], 1318

COVERAGE

S.G. Borello & Sons v. Department of Indus. Relations [43,751], 193

ELIGIBILITY

Challberg v. Denny's Restaurant [45,057], 1015
Robinson v. Sprinkle Masonry, Inc. [45,197], 1318
S.G. Borello & Sons v. Department of Indus. Relations [43,751], 193

ZONING

DISCRIMINATION

Doe v. City of Butler, Pa. [44,660], 611, 1573
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Houston v. City of Cocoa [44,272], 1445

EXCLUSIONARY ZONING

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
Doe v. City of Butler, Pa. [44,660], 611, 1573
Harrison v. Town of Old Saybrook [44,685], 611, 1555
Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

LOW-INCOME HOUSING

ABN 51st St. Partners v. City of New York, 1470
Township of Bernards v. New Jersey Dep't of Community Affairs, 562

ORDINANCES

Neighbors for a Better Approach v. NEPA, 565

Group Homes

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n, 710
Millcreek Township Zoning Ordinance No. 87-24, *In re* [45,189], 1334
Sullivan v. Kuehling, 1379
Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

Halfway Homes

Doe v. City of Butler, Pa. [44,660], 611, 1573

Mobile Homes

White v. Union County, 217

Single-Family Zone

Baer v. Town of Brookhaven [44,613], 321
Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n, 710

PERMITS

Neighbors for a Better Approach v. NEPA, 565

RESIDENTIAL FACILITIES

Harrison v. Town of Old Saybrook [44,685], 611, 1555

Group Homes

Baxter v. City of Belleville, Ill. [44,750], 612, 1329, 1445
Millcreek Township Zoning Ordinance No. 87-24, *In re* [45,189], 1334
Turner v. United Cerebral Palsy Ass'n, 565

> Emotionally Disturbed

City of Jewell Junction v. Cunningham, 565

> Mentally Retarded

Borough of Sinking Spring v. Prospectus Assoc. [44,524], 329
Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191], 1330
Lynch Community Homes, Appeal of, *In re*, 218
Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

Halfway Homes

Doe v. City of Butler, Pa. [44,660], 611, 1573

VARIANCE

Group Homes

City of Jewell Junction v. Cunningham, 565
Sullivan v. Kuehling, 1379
Verland C.L.A., Inc. v. Zoning Hearing Bd., 286

CASETABLE

This is an alphabetical listing by case name of cases that have appeared in the Clearinghouse Review for the period covered by this Index. The five-digit bracketed numbers are the Clearinghouse Numbers and must accompany all document reprint requests. The seven-digit numbers are the Accession Numbers (Acc. No.), identifying codes for materials in the LSC Data Base. A case may have more than one Accession Number; new numbers are assigned to a case as new pleadings become available to the Clearinghouse. The LSC Data Base is available to LSC-funded programs only. Official citations to cases listed in the casetable are current as of mid-March 1990.

— A —

A., E., *In re* [44,753]; Acc. No. 1011939
(SSA, Office of Hearings & App., June 5, 1989), 608

A., Michael, *In re*
552 A.2d 368 (R.I. 1989), 85

A., N., *In re* [44,754]; Acc. No. 1011942
(SSA, Office of Hearings & App., June 19, 1989), 608

Abernathy v. Yeutter [44,695]; Acc. Nos. 1011870; 1012360
725 F. Supp. 459 (W.D. Mo. 1989), 600, 1319

ABN 51st St. Partners v. City of New York
724 F. Supp. 1142 (S.D.N.Y. 1989), 1470

Abraham v. Marist College
706 F. Supp. 294 (S.D.N.Y. 1989), 285

Action Alliance of Senior Citizens of Greater Philadelphia v. Bowen [34,403]; Acc. No. 1011672
173

Adams v. Adams (*In re* Adams) [44,267]; Acc. No. 1011605
No. 88 B 3840 (Bankr. N.D. Ill. Jan. 30, 1989), 173

Adams v. Bowen
872 F.2d 926 (9th Cir. 1989), 714

Adams v. Director, OWCP
886 F.2d 818 (6th Cir. 1989), 1469

Adams v. Philadelphia Hous. Auth. (*In re* Adams) [44,377]; Acc. No. 1011564
No. 88-11351S (Bankr. E.D. Pa. Jan. 9, 1989), 65

Adams v. Ward [45,176]; Acc. No. 1012315
No. 89 L 50661 (Ill. Cir. Ct., Cook County, Oct. 17, 1989), 1347

Addison v. Housing Auth. of Woonsocket [43,721]; Acc. No. 1011691
No. 88-0147L (D.R.I. Apr. 12, 1989), 320

Adoption No. 2428, *In re*
567 A.2d 139 (Md. Ct. Spec. App. 1989), 1572

Advisory Opinion HRS Nonlawyer Counselor, *In re* [42,731]
547 So. 2d 909 (Fla. 1989), 1373

AFL-CIO v. Dole
884 F.2d 597 (D.C. Cir. 1989), 1380

Ahghazali v. Secretary of HHS
867 F.2d 921 (6th Cir. 1989), 220

Akron Metro. Hous. Auth. v. Rice [44,581]; Acc. No. 1011742
No. 88CV 04013 (Akron, Ohio, Mun. Ct. June 2, 1988), 322

Alabama Medicaid Agency v. Peoples
549 So. 2d 504 (Ala. Civ. App. 1989), 1374

Alaska Child Support Enforcement v. Gammons
774 P.2d 181 (Alaska 1989), 707

Alcott v. Board of Review of Okla. Employment Sec. Comm'n [44,494]; Acc. No. 1011665
No. 86-AT-08350-BR (Okla. Employment Sec. Comm'n Mar. 27, 1989), 204

Alessi v. Commonwealth of Pa., Dep't of Pub. Welfare
710 F. Supp. 127 (E.D. Pa. 1989), 710

Alexander v. Alexander
537 N.E.2d 1310 (Ohio C.P. Ct. 1988), 562

Alexander v. Division of Community Servs.
556 A.2d 222 (Me. 1989), 564

Alexander v. Flaherty [13,475]; Acc. Nos. 1011982; 1012479
No. C-C-74-183-M (W.D.N.C. Dec. 15, 1989), 764, 1458

Allen v. Bowen
881 F.2d 37 (3d Cir. 1989), 994

Allen v. Hawes
539 So. 2d 273 (Ala. Civ. App. 1988), 290

Allen v. Lee
538 N.E.2d 1073 (Ohio Ct. App. 1987), 712

Allen v. Lowder
875 F.2d 82 (4th Cir. 1989), 712

Allen v. Sullivan
880 F.2d 1200 (11th Cir. 1989), 996

Alley v. Bennett
379 S.E.2d 294 (S.C. Ct. App. 1989), 562

Alvarez v. Bowen [44,374]; Acc. No. 1011561
704 F. Supp. 49 (S.D.N.Y. 1989), 73

American Centennial Ins. Co. v. U.S. Equal Employment Opportunity Comm'n
722 F. Supp. 180 (D.N.J. 1989), 1468

American Fed'n of Gov't Employees v. Cavazos
721 F. Supp. 1361 (D.D.C. 1989), 1468

American Friends Serv. Comm. v. Thornburgh
718 F. Supp. 820 (C.D. Cal. 1989), 1379

American Health Care Ass'n v. Sullivan [45,388]; Acc. No. 1012514
1432

American Postal Workers Union v. Frank
725 F. Supp. 87 (D. Mass. 1989), 1573

American Sec. Corp. v. Morrow [45,396]; Acc. No. 1012531
No. 71C01-8909-CP-01115 (Ind. Cir. Ct., St. Joseph County, Dec. 20, 1989), 1438

Americans Disabled for Accessible Pub. Transp. v. Skinner [43,230]; Acc. No. 1012077
881 F.2d 1184 (3d Cir. 1989), 737

Americk v. Carroll [44,888]; Acc. No. 1012018
No. 89-2-00052-7 (Wash. Super. Ct., Pend Oreille County, July 13, 1989), 747

Ames v. Employment Appeal Bd.
439 N.W.2d 669 (Iowa 1989), 715

Anderson v. White [44,689]; Acc. Nos. 1011864; 1012409
888 F.2d 985 (3d Cir. 1989), 593, 1314

Andrade v. Bowen [44,071]; Acc. No. 1012079
No. 88-F-211 (D. Colo. June 7, 1989), 762

Andre v. Fink [45,184]; Acc. No. 1012321
447 N.W.2d 808 (Mich. Ct. App. 1989), 1345

Andres v. Bowen
870 F.2d 453 (8th Cir. 1989), 570

Andresen v. Andresen
564 A.2d 399 (Md. 1989), 1385

Antonellis v. Justices of the Brighton Dist. Court [45,417]; Acc. No. 1012550
No. 89-590 (Mass. Sup. Jud. Ct. Jan. 10, 1990), 1551

A.P. Parts Co. v. Bureau of Employment Servs.
542 N.E.2d 684 (Ohio Ct. App. 1988), 1384

Apodaca, *In re*
769 P.2d 88 (N.M. 1989), 221

Appalachian Agency for Senior Citizens v. Ferguson [40,909]
702 F. Supp. 1262 (W.D. Va. 1988), 219

Appalachian Research & Defense Fund of Ky. v. Austin [43,940]; Acc. No. 1012165
No. 85-84 (E.D. Ky. July 23, 1987), 1007

Appeal in Maricopa County Juvenile Action No. JS-7359, *In re*
766 P.2d 105 (Ariz. Ct. App. 1988), 86

Aramowicz v. Bridges (*In re* Diamond Mortgage Corp. of Ill.) [44,809]; Acc. No. 1012506
No. 86 B 13066 (Bankr. N.D. Ill. July 12, 1989), 1434

Archer v. Cirrincione
722 F. Supp. 1118 (S.D.N.Y. 1989), 1468

Arizona v. Anonymous
768 P.2d 175 (Ariz. Ct. App. 1988), 214

Arizona v. Spano [44,443]; Acc. No. 1011613
No. CR 809532 (Ariz. Super. Ct., Maricopa County, Mar. 15, 1989), 179

Armstead v. HUD (*In re* Armstead) [44,519]; Acc. No. 1011687
No. 88-11390S (Bankr. E.D. Pa. Mar. 23, 1989), 186

Armstrong v. Edelson [44,410]; Acc. No. 1012135
718 F. Supp. 1372 (N.D. Ill. 1989), 894

Armstrong v. Palmer [42,033]; Acc. No. 1012020
879 F.2d 437 (8th Cir. 1989), 738

Arnold v. Arizona Dep't of Health Servs.
775 P.2d 521 (Ariz. 1989), 992

Arnold v. Jones
891 F.2d 1370 (8th Cir. 1989), 1574

Aronson v. Handy [44,403]; Acc. No. 1011584
69

Aronson v. HUD
866 F.2d 1 (1st Cir. 1989), 81

Arteaga v. Industrial Claim Appeals Office [38,764]
781 P.2d 98 (Colo. Ct. App. 1989), 1471

Aschettino v. Sullivan
724 F. Supp. 1116 (W.D.N.Y. 1989), 1474

Associated Or. Veterans v. VA
782 P.2d 418 (Or. 1989), 1475

Associates Commercial Corp. v. Langston
565 A.2d 702 (N.J. Super. Ct. 1989), 1464

Association of Community Org. for Reform Now v. City of New Orleans [44,865]; Acc. No. 1011994
758

Atchinson v. Barry [44,155]; Acc. No. 1011817
No. 88-11976 (D.C. Super. Ct., Civ. Div., Apr. 14, 1989), 617

Atencio v. Sollenbarger [44,619]; Acc. No. 1011800
No. SF 88-1357 (C) (N.M. Dist. Ct., Santa Fe County, July 15, 1988), 328

Atwater v. District of Columbia Dep't of Consumer & Regulatory Affairs
566 A.2d 462 (D.C. 1989), 1465

Austin v. Berryman [42,895]
862 F.2d 1050 (4th Cir. 1988); 878 F.2d 786 (4th Cir. 1989), 89, 996

Authenreith v. Watts
539 N.E.2d 818 (Ill. App. Ct. 1989), 708

Autman, *In re* [44,487]; Acc. No. 1011647
No. 902894 (Ohio Dep't of Human Servs. Mar. 24, 1989), 210

Avalos v. K & D Farms [45,026]; Acc. No. 1012185
No. P-88-CA-23 (W.D. Tex. Aug. 31, 1989), 1036

Avila, *In re* [45,083]; Acc. No. 1012234
(S.S.A., Office of Hearings & Appeals, Sept. 8, 1989), 1042

Aviles v. Bowen [44,752]; Acc. No. 1011940
715 F. Supp. 509 (S.D.N.Y. 1989), 629

Ayala v. Boston Hous. Auth.
536 N.E.2d 1082 (Mass. 1989), 565

Ayres v. Babcock [37,119]
867 F.2d 296 (6th Cir. 1989), 221

Ayuda, Inc. v. Thornburgh
880 F.2d 1325 (D.C. Cir. 1989), 991

Azizi v. Thornburgh
719 F. Supp. 86 (D. Conn. 1989), 1379

— B —

B., *In re* [45,331]; Acc. No. 1012450
1450

B., *In re* [44,984]; Acc. No. 1012148
258 Cal. Rptr. 716 (Cal. Ct. App. 1989), 905

B., *In re* [44,515]; Acc. No. 1011683
(SSA, Office of Hearings & App., Mar. 31, 1989), 200

B., *In re* [44,629]; Acc. No. 1011806
No. 1306128R (N.Y. Dep't of Social Servs. Feb. 24, 1989), 342

B., *In re* [45,001]; Acc. No. 1012158
(N.Y. State Dep't of Social Servs. Mar. 23, 1989), 915

B., *In re* [45,094]; Acc. No. 1012249
(Cal. Dep't of Social Servs. Aug. 29, 1989), 1051

B., A., *In re*
444 N.W.2d 415 (Wis. Ct. App. 1989), 992

B., A., *In re*
553 So. 2d 1349 (Fla. Dist. Ct. App. 1989), 1574

B., M.A., Adoption of, *In re* [44,622]; Acc. No. 1011797
309

B., T.L., *In re*
771 P.2d 811 (Wyo. 1989), 561

B., T.S., *In re*
532 So. 2d 866 (La. Ct. App. 1988), 85

Babcock v. Tyler
884 F.2d 497 (9th Cir. 1989), 1380

Babouder v. Abdennur
566 A.2d 457 (Conn. Super. Ct. 1989), 1467

Baby Boy R. v. Velas
386 S.E.2d 839 (W. Va. 1989), 1572

Baer v. Town of Brookhaven [44,613]; Acc. No. 1011791
73 N.Y. 942 (1989), 321

Bailey v. Sullivan [40,070]; Acc. No. 1012219
885 F.2d 52 (3d Cir. 1989), 1038

Bailey v. Wood
708 F. Supp. 249 (D. Minn. 1989), 558

Baines v. Savage [45,486]; Acc. No. 1012602
1563

Baker v. Bowen [45,264]; Acc. No. 1012367
886 F.2d 289 (10th Cir. 1989), 1342

Baker v. Bowen
707 F. Supp. 481 (D. Wyo. 1989), 283

Baker v. Perkins
774 S.W.2d 129 (Ky. Ct. App. 1989), 986

Baker v. Sullivan
880 F.2d 319 (11th Cir. 1989), 995

Baltimore City Dep't of Social Servs. v. Bouknight [45,027]; Acc. No. 1012190
1033

Bangert v. Hodel
705 F. Supp. 643 (D.D.C. 1989), 285

Banks v. Elledge
535 So. 2d 808 (La. Dist. Ct. App. 1988), 89

Baptist v. Lane
708 F. Supp. 920 (N.D. Ill. 1989), 568

Baran v. Bowen [44,375]; Acc. No. 1011562
710 F. Supp. 53 (S.D.N.Y. 1989), 74

Barber v. Mansour [42,788]; Acc. No. 1011983
No. 86-CV-40249-FL (E.D. Mich. Sept. 9, 1988), 763

Barnes v. Gonzalez-Correa [45,154]; Acc. No. 1012290
1332

Barnes v. Singer Co.
376 S.E.2d 756 (N.C. 1989), 221

Barone v. Bowen
869 F.2d 49 (2d Cir. 1989), 289

Barone v. 228-244 Main Garden Corp. [44,486]; Acc. Nos. 1011648; 1012194
No. L-31226-89 (N.J. Super. Ct., Bergen County, Aug. 17, 1989), 192, 1032

Barre Hous. Auth. v. Kwan Ngan [44,500]; Acc. No. 1011674
No. 222-11-88 WnC (Vt. Cir. Ct., Washington County, Apr. 6, 1989), 188

Barrett v. Adams Fruit Co.
867 F.2d 1305 (11th Cir. 1989), 218

Barry v. Bowen
884 F.2d 442 (9th Cir. 1989), 1374

Bartley v. Bowen [44,481]; Acc. No. 1011644
No. C 85-4152 (N.D. Iowa Mar. 14, 1989), 198

Bates v. Bates [45,397]; Acc. No. 1012532
1439

Bates v. Johnson [38,270]; Acc. Nos. 1011809; 1011941
No. 84 C 10054 (N.D. Ill. June 29, 1989), 325, 621

Bates v. Reynolds
771 S.W.2d 774 (Ark. 1989), 991

Batista v. Sullivan
882 F.2d 1480 (9th Cir. 1989), 1382

Baxter v. City of Belleville, Ill. [44,750]; Acc. Nos. 1011943; 1012438; 1012522
720 F. Supp. 720 (S.D. Ill. 1989); No. 89-3354 (S.D. Ill. Dec. 13, 1989), 612, 1329, 1445

Baylor v. New Jersey Dep't of Human Servs. [44,981]; Acc. Nos. 1012197; 1012398
561 A.2d 618 (N.J. Super. Ct., App. Div. 1989), 1049, 1352

Bayview Found., Inc. v. Green [44,730]; Acc. No. 1011913
No. 89-SC-05248 (Wis. Cir. Ct., Dane County, May 26, 1989), 620

Beamer v. Unemployment Compensation Bd. of Review
552 A.2d 774 (Pa. Commw. Ct. 1989), 89

Beasley v. Ginsberg [42,507]; Acc. No. 1012283
No. H-86-619 (PCD) (D. Conn. Oct. 3, 1989), 1047

Beatham v. Commissioner, Me. Dep't of Human Servs. [44,904]; Acc. No. 1012051
No. CV-88-50 (Me. Super. Ct., Penobscot County, June 6, 1989), 765

Beaton v. Thompson [44,989]; Acc. No. 1012154
No. C89-320 (W.D. Wash. June 22, 1989), 912

Beaver v. Kingman [45,481]; Acc. No. 1012592
785 P.2d 998 (Kan. 1990), 1549

Beckman, *In re*
553 A.2d 288 (N.H. 1988), 221

Beckwith v. Kizer [43,794]; Acc. No. 1011772
315

Beddingfield v. Tag Management [44,708]; Acc. No. 1011885
No. 1 89 0055 (M.D. Tenn. May 19, 1989), 614

Bedell v. Schiedler
770 P.2d 909 (Or. 1989), 288

Bedford v. Sugarman [42,960]
772 P.2d 486 (Wash. 1989), 565

Bedoni v. Navajo-Hopi Indian Relocation Comm'n
878 F.2d 1119 (9th Cir. 1989), 992

Begay, *In re* [44,614]; Acc. No. 1011789
No. 22293 (Ariz. Super. Ct., Mohave County, Apr. 25, 1989), 310

Begay v. United States
865 F.2d 230 (Fed. Cir. 1989), 86

Begley v. Sullivan [43,966]; Acc. No. 1012119
No. 3-88-841 (E.D. Tenn. Sept. 25, 1989), 909

Behnke v. Department of Health & Social Servs.
430 N.W.2d 600 (Wis. Ct. App. 1988), 85

Bell v. Nemeco, Inc. [44,329]; Acc. No. 1012041
No. CIV 88-1245 M (D.N.M. Mar. 7, 1989), 729

Bell v. Rogers
541 So. 2d 31 (Ala. Civ. App. 1989), 708

Benjamin v. Coughlin [42,487]
708 F. Supp. 570 (S.D.N.Y. 1989), 569

Bennett v. Seave
554 A.2d 886 (Pa. 1989), 284

Bennett v. Tucker
720 F. Supp. 1331 (N.D. Ill. 1989), 1468

Bennett v. White [27,044]; Acc. Nos. 1011923; 1012362
No. 79-1764 (E.D. Pa. Oct. 26, 1989), 635, 1351

Benser v. Johnson
763 S.W.2d 793 (Tex. Ct. App. 1988), 86

Benson v. Kutsch
380 S.E.2d 36 (W. Va. 1989), 711

Bereda v. Pickering Creek Indus. Park, Inc.
865 F.2d 49 (3d Cir. 1989), 82

Berg v. Gardebring [43,866]; Acc. Nos. 1011655; 1012267
No. 3-87-408 (D. Minn. Mar. 29, 1989); (D. Minn. Sept. 11, 1989), 205, 1048

Bergen County Bd. of Social Servs. v. M. [45,079]; Acc. No. 1012235
No. CO 19968 (N.J. Dep't of Human Servs., Div. of Pub. Welfare, Feb. 9, 1988), 1051

Bernashe v. Comtois [44,588]; Acc. No. 1011754
No. 88-SP-5595-S (Hampden, Mass., Hous. Ct. Apr. 28, 1989), 323

Berry, Marriage of, *In re*
769 P.2d 786 (Or. Ct. App. 1989), 285

Bersani v. Bersani
565 A.2d 1368 (Conn. Super. Ct. 1989), 1464

Best v. Beaver [44,422]; Acc. No. 1011593
196

Betron, Inc. v. Bradley [44,606]; Acc. No. 1011782
No. 88-CV-G-294 (Ohio Dist. Ct., Trumbull County, Mar. 8, 1989), 322

Bettis v. Sullivan
710 F. Supp. 727 (W.D.Mo. 1989), 714

Betts v. Kemp [35,058]; Acc. No. 1011611
TY-82-618-CA (E.D. Tex. Feb. 22, 1989), 187

Billingsley v. Louisiana Office of Employment Sec.
537 So. 2d 826 (La. Ct. App. 1989), 221

Birdwhistle v. Kansas Power & Light Co.
723 F. Supp. 570 (D. Kan. 1989), 1468

Bixler v. Children & Youth Servs. of Delaware County [42,317]; Acc. No. 1011774
No. 86-5402 (E.D. Pa. Apr. 18, 1989), 326

Blackman v. Blackman
767 S.W.2d 54 (Mo. Ct. App. 1989), 562

Blackwell v. Lund [45,002]; Acc. No. 1012157
No. 8-00573 TJH (Bx) (C.D. Cal. Apr. 6, 1989), 900

Blair v. Blair [44,902]; Acc. No. 1012034
734

Blake v. Berman
877 F.2d 145 (1st Cir. 1989), 993

Blake v. Commissioner of Correction
532 N.E.2d 671 (Mass. 1989), 87

Blankenship v. Gunter
707 F. Supp. 1137 (D. Neb. 1988), 569

Blue Legs v. EPA [43,115]; Acc. No. 1011603
195

Board of Educ. v. Human Rights Comm'n
385 S.E.2d 637 (W. Va. 1989), 1469

Bobby v. Alaska
718 F. Supp. 764 (D. Alaska 1989), 1377

Boettger v. Bowen
See Boettger v. Secretary of HHS

Boettger v. Secretary of HHS [42,866]; Acc. Nos. 1011816; 1012353
714 F. Supp. 272 (E.D. Mich. 1989), 638, 1349

Boggs v. Yeutter [44,960]; Acc. No. 1012112
726 F. Supp. 1055 (S.D. W. Va. 1989), 897

Bolden v. Bowen
868 F.2d 916 (7th Cir. 1989), 289

Bonner v. Arizona Dep't of Corrections
714 F. Supp. 420 (D. Ariz. 1989), 993

Boone v. Elrod
706 F. Supp. 636 (N.D. Ill. 1989), 288

Booyer v. United States [45,424]; Acc. No. 1012554
No. 84-4093-CV-C-5 (W.D. Mo. Oct. 17, 1989), 1550

Borden v. Borden
550 So. 2d 901 (La. Ct. App. 1989), 1467

Borman v. Leiker (*In re* Borman)
886 F.2d 273 (10th Cir. 1989), 1373

Borough of Sinking Spring v. Prospectus Assoc. [44,524]; Acc. No. 1011696
No. 5731 Equity 1987 (Pa. C.P. Ct., Berks County, Mar. 23, 1989), 329

Botero Gomez v. United States
725 F. Supp. 526 (S.D. Fla. 1989), 1574

Bowens v. Philadelphia Hous. Auth. (*In re* Bowens) [44,378]; Acc. No. 1011565
65

Bowker v. Bowen
706 F. Supp. 88 (D. Me. 1989), 283

Boyd v. Bowen
710 F. Supp. 1046 (E.D. Pa. 1989), 715

Boyd v. City of Woodville [44,988]; Acc. No. 1012155
No. W88-0035 (B) (S.D. Miss. July 26, 1989), 895

Boyd v. Department of Employment Sec. [44,570]; Acc. No. 1011734
773 P.2d 398 (Utah Ct. App. 1989), 338

Boykins, *Ex parte*
764 S.W.2d 590 (Tex. Ct. App. 1989), 215

Bozarth, Custody of, *In re*
538 N.E.2d 785 (Ill. App. Ct. 1989), 708

Bradley v. Carydale Enters.
707 F. Supp. 217 (E.D. Va. 1989), 287

Brady v. C.F. Schwartz Motor Co., Inc.
723 F. Supp. 1045 (D. Del. 1989), 1464

Brassard v. Kuzmik [44,703]; Acc. No. 1011877
622

Brassell v. Georgia
385 S.E.2d 665 (Ga. 1989), 1466

Brassfield v. County of Cook
701 F. Supp. 679 (N.D. Ill. 1988), 87

Breen v. Jarvis
761 S.W.2d 638 (Mo. Ct. App. 1988), 83

Brendale v. Confederated Tribes & Bands of the Yakima Indian Nation
109 S. Ct. 2994 (1989), 566

Brewer, *In re* [44,498]; Acc. No. 1011668
No. 85-J-19 (Ind. Cir. Ct., Orange County, Apr. 27, 1987), 190

Brewer v. Lyng [43,174]; Acc. No. 1012539
No. 87-0351-B (D. Me. Aug. 18, 1989), 1557

Brickey v. Bowen
722 F. Supp. 318 (S.D. Tex. 1989), 1474

Briggs v. Board of Educ.
707 F. Supp. 623 (D. Conn. 1988), 564

Briggs v. Sullivan [44,289]; Acc. Nos. 1011764; 1012241
886 F.2d 1132 (9th Cir. 1989), 332, 1039

Brindis v. California Dep't of Transp. [44,977]; Acc. No. 1012124
903

Brinkley v. Early [45,345]; Acc. No. 1012359
No. 1:88-1502 (S.D. W. Va. Dec. 12, 1989), 1352

Brinkman v. Rahm [41,131]
878 F.2d 263 (9th Cir. 1989), 995

Britton v. Bill Anselmi Pontiac-Buick-GMC [45,441]; Acc. No. 1012560
786 P.2d 855 (Wyo. 1990), 1547

Britton v. Weiss [45,356]; Acc. No. 1012463
No. 89-CV-143 (N.D.N.Y. Dec. 8, 1989), 1435

Brock v. Warren County, Tenn.
713 F. Supp. 238 (E.D. Tenn. 1989), 993

Bronston v. Kemp [45,131]; Acc. No. 1012376
722 F. Supp. 372 (S.D. Ohio 1989), 1330

Brookins v. Brookins
380 S.E.2d 494 (Ga. Ct. App. 1989), 708

Brooks v. Sullivan
882 F.2d 1375 (8th Cir. 1989), 1382

Brooks v. Wachovia Bank & Trust [45,393]; Acc. No. 1012535
384 S.E.2d 288 (N.C. Ct. App. 1989), 1437

Brown, *In re*
540 N.E.2d 317 (Ohio Ct. App. 1989), 990

Brown v. Angus [44,603]; Acc. No. 1011825
No. 88-C-787J (D. Utah May 8, 1989), 639

Brown v. Board of Educ. of Topeka
892 F.2d 851 (10th Cir. 1989), 1572

Brown v. Bowen [44,787]; Acc. No. 1011976
754

Brown v. Bowen
710 F. Supp. 1303 (W.D. Wash. 1989), 715

Brown v. Johnson
710 F. Supp. 183 (E.D. Ky. 1989), 709

Brown v. Kemp [44,707]; Acc. No. 1011886
No. C89-063WD (W.D. Wash. May 15, 1989), 615

Brown v. Kizer [43,729]; Acc. No. 1012524
No. 641954-3 (Cal. Super. Ct., Alameda County, Dec. 29, 1989), 1443

Brown v. Ledbetter [41,201]; Acc. Nos. 1012088; 1012526
761, 1438

Brown v. McMahon [43,812]; Acc. No. 1012286
722 F. Supp. 1573 (E.D. Cal. 1989), 1350

Brown v. Read [45,332]; Acc. No. 1012537
No. CJ 89 9320 (Okla. Dist. Ct., Oklahoma County, Oct. 13, 1989), 1451

Brown v. Sullivan
724 F. Supp. 76 (W.D.N.Y. 1989), 1463

Brown v. Tuttle
544 N.E.2d 1328 (Ill. App. Ct. 1989), 1475

Browning, Guardianship of, *In re* [45,085]; Acc. No. 1012232
543 So. 2d 258 (Fla. Ct. App. 1989), 710, 1022

Bruse, *In re* [44,921]; Acc. No. 1012063
(SSA, Office of Hearings & App., July 27, 1989), 758

Bryant v. Bowen
882 F.2d 1331 (8th Cir. 1989), 1382

Bryant v. Goldome Credit [44,765]; Acc. No. 1011965
No. 87 CVS 2968 (N.C. Super. Ct., Forsyth County, Apr. 4, 1989), 592

Buchanan v. Clark County Pub. Transp. Benefit Area Auth. [43,644]; Acc. No. 1012310
No. 88-2-01262-1 (Wash. Super. Ct., Clark County, Oct. 20, 1989), 1322

Buchbinder v. Bowen
709 F. Supp. 389 (S.D.N.Y. 1989), 571

Buck v. Department of Pub. Welfare
566 A.2d 1269 (Pa. Commw. Ct. 1989), 1575

Bueno v. CF&I Steel Corp. [44,681]; Acc. No. 1011847
773 P.2d 937 (Wyo. 1989), 626

Bunch v. El Paso Hous. Auth. [45,257]; Acc. No. 1012427
1331

Burk v. K-Mart Corp.
770 P.2d 24 (Okla. 1989), 285

Burkes v. Sullivan [45,386]; Acc. No. 1012512
No. 89-8206 (11th Cir. Dec. 4, 1989), 1453

Burleigh County Hous. Auth. v. Montgomery [45,157]; Acc. No. 1012296
No. 89-2107 (N.D. Dist. Ct., Burleigh County, June 21, 1989), 1334

Burlington County Welfare Bd. v. B. [44,432]; Acc. No. 1011588
No. HPW 9037-88 (N.J. Office of Administrative Law Jan. 27, 1989), 209

Burlington Hous. Auth. v. Jewer [44,756]; Acc. No. 1011949
No. 2-1-89CnC (Vt. Dist. Ct., Chittenden County, Apr. 17, 1989), 619

Burlington N. v. Fort Peck Tribal Executive Bd.
701 F. Supp. 1493 (D. Mont. 1988), 86

Burr v. Sobol [45,322]
888 F.2d 258 (2d Cir. 1989), 1469

Burris v. Mahaney [44,908]; Acc. No. 1012059
716 F. Supp. 1051 (M.D. Tenn. 1989), 731

Burrows, *In re* [44,975]; Acc. No. 1012126
No. 02836840A (Me. Dep't of Human Servs. Feb. 16, 1989), 914

Burton v. Bowen
704 F. Supp. 599 (E.D. Pa. 1989), 220

Burton v. Bowen
711 F. Supp. 212 (E.D. Pa. 1989), 706

Burton v. Housing Auth. of Morgantown [44,488]; Acc. No. 1011646
No. C89-0040 BG (M) (W.D. Ky. Mar. 27, 1989), 184

Busch v. Busch
776 S.W.2d 374 (Mo. 1989), 1465

Business & Professional People for the Pub. Interest v. Illinois Commerce Comm'n [44,492]; Acc. No. 1011661
196

Butler v. Bowen
865 F.2d 173 (8th Cir. 1989), 88

Butler v. Lomas & Nettleton Co.
862 F.2d 1015 (3d Cir. 1988), 82

Butler v. Turnage
701 F. Supp. 726 (W.D. Mo. 1988), 82

Byrd, *In re* [44,701]; Acc. No. 1011880
587

Byrd v. Midwest Real Estate Inv. [44,702]; Acc. No. 1011879
587

— C —

C., *In re* [44,534]; Acc. No. 1011702
317

C., *In re* [44,484]; Acc. No. 1011650
No. XIX 89000935 (Iowa Dep't of Human Services Mar. 8, 1989), 182

C., *In re* [45,387]; Acc. No. 1012513
No. 89215137 ALA (Cal. Dep't of Social Servs. Dec. 22, 1989), 1442

C. v. Hornsby [45,438]; Acc. No. 1012563
No. 88-D-1170-N (M.D. Ala. Apr. 19, 1989), 1561

C. v. Hughes [44,421]; Acc. No. 1011592
189

C., K. v. Wyoming
771 P.2d 774 (Wyo. 1989), 566

C., Shelly v. Venus Indep. School Dist.
878 F.2d 862 (5th Cir. 1989), 985

Calderon v. Presidio Valley Farmers Ass'n
863 F.2d 384 (5th Cir. 1989), 86

Caledonian Record v. Department of Employment & Training
559 A.2d 678 (Vt. 1989), 716

California *ex rel.* City of Wheatland v. Alfaro [44,709]; Acc. Nos. 1011884; 1012013
No. 44985 (Cal. Super. Ct., Yuba County, May 12, 1989); (Cal. Super. Ct., Yuba County, July 21, 1989), 623, 749

California Legal Servs. Trust Fund, *In re* [44,637]; Acc. No. 1011810
301

California Rural Legal Assistance v. LSC [44,700]; Acc. No. 1011892
No. C-89-1850 (N.D. Cal. May 26, 1989), 582

Callison v. Naylor
777 P.2d 913 (N.M. Ct. App. 1989), 986

Cameron, *In re* [44,742]; Acc. No. 1011932
No. 048-54-810A (Me. Dep't of Human Servs. Apr. 13, 1989), 642

Cameron v. Metcuz
705 F. Supp. 454 (N.D. Ind. 1989), 219

Camp v. Florida
536 So. 2d 369 (Fla. Ct. App. 1988), 83

Campbell, *In re* [44,381]; Acc. No. 1011573
(SSA, Office of Hearings & App., Mar. 1, 1989), 74

Campos v. Flaherty [44,633]; Acc. No. 1011804
377 S.E.2d 282 (N.C. Ct. App. 1989), 341

Canterino v. Wilson [30,606]
869 F.2d 948 (6th Cir. 1989), 288

Caples v. Yeutter [44,577]; Acc. Nos. 1011746; 1012221
721 F. Supp. 1065 (D. Minn. 1989), 314, 1017

Card v. Dugger
709 F. Supp. 1098 (M.D. Fla. 1988), 568

Carelli v. Howser [44,746]; Acc. No. 1011929
594

Carmody v. Secretary of Navy
886 F.2d 678 (4th Cir. 1989), 1466

Carrington v. Commissioner of Educ.
535 N.E.2d 212 (Mass. 1989), 286

Carroll v. General Accident Ins. Co. of Am.
891 F.2d 1174 (5th Cir. 1990), 1572

Carruthers v. Prudential Ins. Co. [39,669]; Acc. No. 1011855
No. 07-85-13292 (Iowa Civil Rights Comm'n May 24, 1989), 593

Carter v. Carter
783 P.2d 969 (Okla. 1989), 1571

Carter v. Ives [45,046]; Acc. No. 1012507
No. CV-87-152 (Me. Super. Ct., Aroostook County, Jan. 24, 1989), 1461

Carter v. Review Bd. of Ind. Dep't of Employment & Training Servs. [44,426]; Acc. No. 1011596
No. 93A02-8802-EX-00056 (Ind. Ct. App. July 25, 1988), 202

Carter v. Sullivan [44,887]; Acc. No. 1012017
No. 88-C-664 (E.D. Wis. July 19, 1989), 756

Carver v. Secretary of HHS [44,543]; Acc. No. 1011713
869 F.2d 289 (6th Cir. 1989), 331

Cassell v. Flaherty [45,398]; Acc. No. 1012527
1439

Cassidy, *In re* [44,916]; Acc. No. 1012067
(SSA, Office of Hearings & App., Sept. 30, 1988), 757

Cassidy v. Adams
872 F.2d 729 (6th Cir. 1989), 715

Casteel v. Consolidation Coal Co.
383 S.E.2d 305 (W. Va. 1989), 990

Castellanos v. Department of Health & Rehabilitative Servs.
545 So. 2d 455 (Fla. Dist. Ct. App. 1989), 991

Catanzano v. Richardson [45,058]; Acc. Nos. 1012210; 1012325
No. 89-1127L (W.D.N.Y. Aug. 28, 1989); (W.D.N.Y. Oct. 17, 1989), 1021, 1324

Catholic Social Servs., Inc. v. CAA
783 P.2d 1159 (Alaska 1989), 1574

Cave v. Pro-Tem [45,262]; Acc. No. 1012369
1318

Cazier v. Bowen [44,766]; Acc. No. 1011967
607

Celorie v. Comair, Inc. [44,656]; Acc. No. 1011823
603

Cervantez v. Sullivan [44,983]; Acc. No. 1012198
719 F. Supp. 899 (E.D. Cal. 1989); 724 F. Supp. 757 (E.D. Cal. 1989), 1039, 1474

Chaffin v. Palumbo [45,283]; Acc. No. 1012410
781 P.2d 1247 (Or. Ct. App. 1989), 1315

Challberg v. Denny's Restaurant [45,057]; Acc. No. 1012211
No. 125-49-50 (Va. Indus. Comm'n Oct. 20, 1988), 1015

Chaloux v. Killeen
873 F.2d 1274 (9th Cir. 1989), 560

Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,711]; Acc. No. 1011889
No. LA 88-10557-NRR (Bankr. C.D. Cal. July 15, 1988), 586

Chambers v. Marathon Home Loans (*In re* Marathon Home Loans) [44,799]; Acc. No. 1011907
No. 288-M-0116-C-11 (Bankr. E.D. Cal. May 31, 1989), 586

Chambers v. Marathon Home Loans [44,710]; Acc. No. 1011888
No. 40210 (Cal. Super. Ct., Sutter County, July 14, 1988), 586

Champeno v. Sullivan [45,200]; Acc. No. 1012475
1455

Chandronnet v. Sullivan [45,401]; Acc. No. 1012529
No. 88-0632 T (D.R.I. Aug. 25, 1989), 1447

Chapoton v. Majestic Caterers, Inc. [44,286]; Acc. No. 1011906
No. 87-688 (Va. Cir. Ct., City of Roanoke, June 7, 1989), 598

Chappell v. Mountain Fuel Supply Co. [45,251]; Acc. No. 1012400
No. C87-4339 (Utah Dist. Ct., Salt Lake County, June 2, 1988), 1339

Chappell v. Mountain Fuel Supply Co. [45,267]; Acc. No. 1012401
No. 87-057-19 (Utah Pub. Serv. Comm'n July 19, 1988), 1339

Charter Fed. Sav. & Loan v. Rogalski [44,737]; Acc. No. 1011921
(Conn. Super. Ct., Norwalk, May 23, 1989), 616

Chase v. Ives [45,240]; Acc. No. 1012378
1355

Chavez v. Hernandez [44,321]; Acc. No. 1011534
No. CIV A17886 (Cal. Super. Ct., Los Angeles County, Nov. 2, 1988), 66

Check Reporting Servs. v. Burton [44,597]; Acc. No. 1011765
306

Chemical Mortgage v. Cosgray [45,263]; Acc. No. 1012368
1348

Chicago Hous. Auth. v. Benson [44,673]; Acc. No. 1011839
No. 88 M1 231658 (Ill. Cir. Ct., Cook County, May 15, 1989), 617

Chicago Hous. Auth. v. Thomas [45,130]; Acc. Nos. 1012271; 1012469
No. 88 M1-231788 (Ill. Cir. Ct., Cook County, Dec. 1, 1989), 1031, 1450

Child v. Spillane
866 F.2d 691 (4th Cir. 1989), 213

Children Residing at St. Aloysius Home, *In re* [44,866]; Acc. No. 1011993
556 A.2d 552 (R.I. 1989), 738

Childs v. Essex County Div. of Welfare
564 A.2d 889 (N.J. Super. Ct. Law Div. 1989), 1385

Chiles Offshore, Inc. v. Administrator, Dep't of Employment Sec.
551 So. 2d 849 (La. Ct. App. 1989), 1475

Chilkat Indian Village v. Johnson [42,100]
870 F.2d 1469 (9th Cir. 1989), 567

Chipps v. United States Dist. Court for the Middle Dist. of Pa.
882 F.2d 72 (3d Cir. 1989), 986

Chisholm v. Secretary of HHS
717 F. Supp. 366 (W.D. Pa. 1989), 1383

Christopher v. Secretary of HHS
702 F. Supp. 41 (N.D.N.Y. 1989), 88

Chrysler Dodge Country, U.S.A. v. Curley [45,254]; Acc. No. 1012372
782 P.2d 536 (Utah Ct. App. 1989), 1312

Chunglo v. Secretary of HHS [45,353]; Acc. No. 1012460
No. 85-0367-F (D. Mass. Aug. 4, 1989), 1454

Chynoweth v. Bowen [44,462]; Acc. No. 1011634
No. 86-C-0905W (D. Utah Feb. 17, 1989), 171

Cisneros v. The U.D. Registry, Inc. [42,584]; Acc. No. 1012086
No. C645123 (Cal. Super. Ct., Los Angeles County, July 10, 1989), 748

City of Ashland v. Cooper
863 F.2d 691 (9th Cir. 1988), 82

City of Jewell Junction v. Cunningham
439 N.W.2d 183 (Iowa 1989), 565

City of Los Angeles v. McLaughlin
865 F.2d 1084 (9th Cir. 1989), 84

City of New York v. Baker III
878 F.2d 507 (D.C. Cir. 1989), 991

City of Philadelphia v. Pennsylvania Dep't of Pub. Welfare [45,187]; Acc. No. 1012436
564 A.2d 271 (Pa. Commw. Ct. 1989), 1321

City of Wichita v. Employment Sec. Bd.
779 P.2d 41 (Kan. Ct. App. 1989), 1384

Civil Serv. Comm'n v. Human Relations Comm'n
556 A.2d 933 (Pa. Commw. Ct. 1989), 563

Clapper v. Budget Oil Co.
437 N.W.2d 722 (Minn. Ct. App. 1989), 563

Clark v. Sarver [44,618]; Acc. No. 1011799
311

Clark v. Yeutter [45,436]; Acc. No. 1012565
1557

Clarke v. North Detroit Gen. Hosp.
446 N.W.2d 493 (Mich. Ct. App. 1989), 1384

Clarkson Mobile Home Park v. Ecklund [44,909]; Acc. No. 1012055
532 N.Y.S.2d 615 (Monroe County Ct. 1987), 750

Classe v. Classe
772 S.W.2d 386 (Mo. Ct. App. 1989), 987

Clements, *In re*
881 F.2d 145 (5th Cir. 1989), 986

Cloutterbuck v. Cloutterbuck
556 A.2d 1082 (D.C. 1989), 561

Coates v. Bowen
875 F.2d 97 (7th Cir. 1989), 714

Cochran v. Wallace
381 S.E.2d 853 (N.C. Ct. App. 1989), 988

Coker v. Bowen
715 F. Supp. 383 (D.D.C. 1989), 1378

Coleman v. Barry [44,388]; Acc. Nos. 1011579; 1012115
No. C-1-89-0177 (S.D. Ohio July 6, 1989), 62, 899

Coleman v. Fiore Bros., Inc.
552 A.2d 141 (N.J. 1989), 82

Coleman v. Idaho
762 P.2d 814 (Idaho 1988), 87

Collins, Webster & Rouse v. Coleman
776 S.W.2d 930 (Mo. Ct. App. 1989), 1465

Colon v. Casco, Inc.
716 F. Supp. 688 (D. Mass. 1989), 1380

Colon v. Hart (*In re* Colon) [44,881]; Acc. No. 1012006
No. 87-03126F (Bankr. E.D. Pa. July 11, 1989), 725

Colon v. HHS
877 F.2d 148 (1st Cir. 1989), 994

Colonial Am. Dev. v. Griffith [44,682]; Acc. Nos. 1011852; 1012571
48 Ohio St. 3d 72 (1990), 615, 1549

Colonial Penn Life Ins. Co., *In re* [44,451]; Acc. No. 1011779
307

Colorado Civil Rights Comm'n v. North Washington Fire Protection Dist.
772 P.2d 70 (Colo. 1989), 563

Colorado Div. of Employment & Training v. Hewlett
777 P.2d 704 (Colo. 1989), 996

Colorado *ex rel.* Bucholz, *In re*
778 P.2d 300 (Colo. Ct. App. 1989), 1380

Colorado River Indian Tribes v. Town of Parker
705 F. Supp. 473 (D. Ariz. 1989), 219

Colter v. Grant-Blackford Mental Health
531 N.E.2d 1227 (Ind. Ct. App. 1988), 86

Colunga v. Young [44,969]; Acc. No. 1012106
722 F. Supp. 1479 (W.D. Mich. 1989), 906

Comer v. Kemp [45,360]; Acc. No. 1012465
1447

Committee for a Better N. Philadelphia v. Southeastern Pa. Transp. Auth. [43,324]; Acc. No. 1011716
337

Committee of Organized Groups v. City of Orlando [44,353]; Acc. No. 1011546
60

Committee of Organized Groups v. Orange County School Dist. [45,484]; Acc. No. 1012593
1552

Committee on Legal Ethics v. Triplett
376 S.E.2d 818 (W. Va. 1988); 378 S.E.2d 82 (W. Va. 1988), 214, 284

Conard v. Bowen
710 F. Supp. 251 (S.D. Iowa 1988), 714

Condosta v. Department of Social Welfare
557 A.2d 499 (Vt. 1989), 564

Cone v. Babcock [44,615]; Acc. Nos. 1011788; 1012193
No. 89-010-057-AZ (Mich. Cir. Ct., Gladwin County, Sept. 12, 1989); (Mich. Cir. Ct., Gladwin County, Apr. 27, 1989), 316, 1024

Connecticut v. Sanchez [45,370]; Acc. No. 1012490
No. 433201 (Conn. Super. Ct., Hartford/New Britain, Nov. 24, 1989), 1460

Connell v. Bowen
888 F.2d 1250 (8th Cir. 1989), 1473

Connelly v. Housing Auth. of New Haven [45,226]; Acc. Nos. 1012345; 1012523
567 A.2d 1212, 213 Conn. 354 (1990), 1332, 1448

Connelly v. Springfield Redevelopment Auth. [44,389]; Acc. No. 1011574
66

Connor v. Indiana Dep't of Pub. Welfare [44,437]; Acc. No. 1011606
181

Consumer Educ. & Protection Ass'n v. SEPTA
557 A.2d 1123 (Pa. Cmmw. Ct. 1989), 564

Cook v. Barry [44,249]; Acc. No. 1012202
718 F. Supp. 632 (S.D. Ohio 1989), 1021

Cook v. Ochsner Found. Hosp. [3973]; Acc. No. 1011951
No. 70-1969 (E.D. La. June 13, 1989), 606

Cooke v. Superior Court of Butte County [44,985]; Acc. No. 1012147
261 Cal. Rptr. 706 (Cal. Ct. App. 1989), 899

Cooper v. Bowen
707 F. Supp. 260 (N.D. Tex. 1989), 289

Cooper v. Sullivan
880 F.2d 1152 (9th Cir. 1989), 995

Copas v. Cabinet for Human Resources [44,382]; Acc. No. 1011575
67

Corbett v. Wild W. Enters. Inc.
713 F. Supp. 1360 (D. Nev. 1989), 985

Cornette v. Secretary of HHS
869 F.2d 260 (6th Cir. 1988), 289

Coronado v. Selkirk [44,942]; Acc. No. 1012446
No. G-88-474 CA7 (W.D. Mich. June 23, 1989), 1339

Coronet Properties v. Township of North Bergen [44,463]; Acc. Nos. 1011633; 1012542
No. A-3158-88T1 (N.J. Super. Ct., App. Div., Jan. 2, 1990), 193, 1562

Corr v. Sullivan
725 F. Supp. 413 (N.D. Ind. 1989), 1575

Correa v. Bowen [44,894]; Acc. No. 1012031
No. 87 Civ. 2267 (KMW) (S.D.N.Y. July 11, 1989), 755

Cote v. Commissioner, Maine Dep't of Human Servs. [44,978]; Acc. No. 1012428
1355

Cotto v. Jenney [44,802]; Acc. No. 1012511
721 F. Supp. 5 (D. Mass. 1989), 1435

Cotton v. Babcock [37,134]; Acc. No. 1011945
598

Cottrell v. Lopeman [41,532]; Acc. No. 1012087
759

Country Village Tenant Ass'n v. Fairmount Heights Assocs. Ltd. Partnership [44,322]; Acc. No. 1011533
No. H-88-340 PCD (D. Conn. Nov. 16, 1988), 64

Coup v. Heckler
706 F. Supp. 405 (W.D. Pa. 1989), 283

Cousins v. Secretary of United States Dep't of Transp.
880 F.2d 603 (1st Cir. 1989), 989

Cowan v. Lipscomb [43,464]; Acc. No. 1011586
No. 2:88-0670 (S.D. W. Va. Feb. 28, 1989), 207

Cowling v. Barry [43,831]; Acc. No. 1011580
No. C88-3310A (N.D. Ohio Mar. 6, 1989), 78

Cox v. Court of Common Pleas
537 N.E.2d 721 (Ohio Ct. App. 1988), 566

Cox v. 8th St. Auto Sales [45,253]; Acc. No. 1012374
1311

Cox v. Jenkins
878 F.2d 414 (D.C. Cir. 1989), 989

Cox v. Michigan Ins. Bureau [44,956]; Acc. No. 1012223
1026

Cox, Custody of, *In re*
536 N.E.2d (Ind. Ct. App. 1989), 561

Crane v. Kemp [44,576]; Acc. No. 1011747
No. C89-599 (W.D. Wash. May 17, 1989), 320

Cranford v. Cranford
772 S.W.2d 48 (Tenn. Ct. App. 1989), 988

Crary v. Department of Social Servs. [45,402]; Acc. No. 1012533
No. 363143 (Cal. Super. Ct., Sacramento County, Dec. 18, 1989), 1459

Cresto v. Director, Office of Workers' Compensation Programs [43,296]; Acc. No. 1011971
743

Crockett v. Adjustment Serv. of Knoxville [44,886]; Acc. No. 1012016
No. 2:88-0093 (M.D. Tenn. May 16, 1989), 731

Crockett v. Dobbs
545 So. 2d 811 (Ala. Civ. App. 1989), 986

Cronkhite v. Kemp [45,371]; Acc. No. 1012491
No. C-89-765-JLQ (E.D. Wash. Dec. 18, 1989), 1448

Crossley v. Lieberman [43,302]; Acc. No. 1011537
868 F.2d 566 (3d Cir. 1989), 58

Crowder v. Sullivan [44,893]; Acc. No. 1012026
No. 87-C-1122 (E.D. Wis. June 9, 1989), 756

Crozier v. Shillinger
710 F. Supp. 760 (D. Wyo. 1989), 713

Cruise v. Cruise
374 S.E.2d 882 (N.C. Ct. App. 1989), 83

Crumley v. Berry
766 S.W.2d 7 (Ark. 1989), 284

Cullum v. Faith Mission Home, Inc.
379 S.E.2d 445 (Va. 1989), 564

Cunningham v. Cunningham
761 S.W.2d 941 (Ark. 1988), 83

Curry v. Gatson
376 S.E.2d 166 (W. Va. 1988), 89

Custer v. Custer
776 S.W.2d 92 (Tenn. Ct. App. 1988), 1375

Czachorowski v. Degenhart [44,099]; Acc. No. 1012587
No. 07961/88 (N.Y. Sup. Ct., Erie County, Jan 16, 1990), 1551

Czajka v. Moore
708 F. Supp. 253 (E.D. Mo. 1989), 568

Czyzowicz v. Dartmouth Plan [45,268]; Acc. No. 1012411
1312

— D —

D., *In re* [44,567]; Acc. No. 1011733
No. 027-000139-00-4 (Va. Dep't of Medical Assistance Servs. Appeals Bd. Sept. 19, 1988), 318

D., *In re* [44,666]; Acc. No. 1011835
No. 674-0472151 (Ohio Dep't of Human Services Sept. 30, 1988), 643

D., S. v. Faulkner
705 F. Supp. 1361 (S.D. Ind. 1989), 283

D., T., *In re*
537 So. 2d 173 (Fla. Dist. Ct. App. 1989), 217

D&D Screen Printing v. Oliver [45,158]; Acc. No. 1012298
No. 89-C-00577 (Ky. Dist. Ct., Warren County, Oct. 16, 1989), 1313

Dale v. Sierra Pac. Power Co. [44,923]; Acc. No. 1012089
752

Dallas Gay Alliance v. Dallas County Hosp. Dist.
719 F. Supp. 1380 (N.D. Tex. 1989), 1378

D'Allessandro v. Ely
434 N.W.2d 662 (Mich. Ct. App. 1988), 83

Daly, *In re* [44,544]; Acc. No. 1011712
No. LC-88-01213 (Mo. Labor & Indus. Relations Comm'n Apr. 18, 1989), 340

Danforth v. Maine [45,237]; Acc. No. 1012377
1355

Danner v. Division of Family Servs.
772 S.W.2d 868 (Mo. Ct. App. 1989), 998

Darling v. Bowen [42,592]; Acc. No. 1012220
878 F.2d 1069 (8th Cir. 1989), 1019

Davenport v. Bowen
709 F. Supp. 634 (E.D. Pa. 1989), 572

Davidson v. Shoney's Big Boy Restaurant
380 S.E.2d 232 (W. Va. 1989), 710

Davie v. Sullivan [45,352]; Acc. No. 1012467
No. 88-1361-T (W.D.N.Y. Nov. 9, 1989), 1454

Davis v. Collingsworth [44,912]; Acc. No. 1012043
No. 88-SC-140-DG (Ky. Sup. Ct. June 8, 1989), 733

Davis v. G&S Assocs. [45,443]; Acc. No. 1012570
1554

Davis v. Heckler
868 F.2d 323 (9th Cir. 1989), 220

Davis v. Housing Auth. of Dallas [44,461]; Acc. No. 1011624
187

Davis v. Secretary of HHS
867 F.2d 336 (6th Cir. 1989), 220

Davis, Custody of, *In re*
534 N.E.2d 945 (Ohio Ct. App. 1987), 215

Day v. Bowen [42,990]; Acc. No. 1011657
No. C-1-87-800 (S.D. Ohio Oct. 25, 1988), 199

De La Garza v. Bowen [44,527]; Acc. No. 1011693
336

DeAllaume v. Perales [44,376]; Acc. No. 1011563
No. 84 Civ. 6691 (SWK) (S.D.N.Y. Sept. 5, 1988), 77

DeArmond v. Sugarman [44,056]; Acc. No. 1011936
No. C88-608T (W.D. Wash. June 12, 1989), 639

DeCarolis v. Secretary of HHS
724 F. Supp. 71 (W.D.N.Y. 1989), 1474

Decatur Memorial Hosp. v. Cowick [45,196]; Acc. No. 1012323
No. 89-SC-1448 (Ill. Cir. Ct., Macon County, Oct. 3, 1989), 1326

Deck v. Michael [44,594]; Acc. No. 1011762
341

Deever v. Hawkeye Window Cleaning, Inc.
447 N.W.2d 418 (Iowa Ct. App. 1989), 1475

DeFehr v. Simmons
884 F.2d 1242 (9th Cir. 1989), 1380

DeFender v. Zephier [44,120]; Acc. No. 1011601
435 N.W.2d 717 (S.D. 1989), 195

DeFrancesco v. Bowen
867 F.2d 1040 (7th Cir. 1989), 220

DeGidio v. Pung
704 F. Supp. 922 (D. Minn. 1989), 219

Dehmel v. Employment Appeal Bd.
433 N.W.2d 700 (Iowa 1988), 89

Del Pesco v. Sullivan [44,760]; Acc. No. 1011953
604

DeLaMatter v. DeLaMatter
445 N.W.2d 676 (Wis. Ct. App. 1989), 1375

Dellmuth v. Muth
109 S. Ct. 2397 (1989), 559

Delta Fertilizer, Inc. v. Weaver
547 So. 2d 800 (Miss. 1989), 1374

DeMent v. Oglala Sioux Tribal Court
874 F.2d 510 (8th Cir. 1989), 712

DeMoss v. Heckler
706 F. Supp. 303 (D. Del. 1988), 289

Denny v. Westfield State College
880 F.2d 1465 (1st Cir. 1989), 985

Department of Corrections v. Human Rights Comm'n
534 N.E.2d 161 (Ill. App. Ct. 1989), 216

Department of Health & Rehabilitative Servs. v. Thompson
552 So. 2d 318 (Fla. Dist. Ct. App. 1989), 1464

Department of Pub. Aid v. Newburg
537 N.E.2d 384 (Ill. App. Ct. 1989), 561

Department of Revenue v. Jarvenpaa
534 N.E.2d 286 (Mass. 1989), 214

Department of Social Servs. v. Brewer
446 N.W.2d 593 (Mich. Ct. App. 1989), 1385

DeRobertis v. Bowen
715 F. Supp. 888 (N.D. Ill. 1989), 1383

Derrick v. Pierce [44,516]; Acc. No. 1011682
186

Desrouchers v. Heckler
701 F. Supp. 753 (D. Nev. 1988), 82

Devine v. Maryhaven, Inc. [44,454]; Acc. No. 1012180
1023

DeVries v. Fairfax County School Bd. [43,722]
882 F.2d 876 (4th Cir. 1989), 1377

DiAngelo v. Illinois Dep't of Pub. Aid
891 F.2d 1260 (7th Cir. 1989), 1570

Dibiase v. State Mobile Homes [44,744]; Acc. No. 1011930
623

Dickson, *In re* [44,963]; Acc. No. 1012110
No. J.D. 89-08 (Conn. Dep't of Educ. Mar. 23, 1989), 896

Dickson v. Thousand Trails Resorts [44,582]; Acc. No. 1011752
No. 89-36 (Ohio Sup. Ct. Mar. 22, 1989), 338

Diggs v. Bancplus Mortgage [45,365]; Acc. No. 1012483
1438

Dimeo v. Griffin [45,028]; Acc. No. 1012188
721 F. Supp. 958 (N.D. Ill. 1989), 1015

DiStefano v. Watson
566 A.2d 1 (Del. 1989), 1472

Division of Child Protective Servs. v. Watkins [45,419]; Acc. No. 1012551
1547

Dixon v. Bowen [44,657]; Acc. No. 1011822
No. CV 87-5646-T (C.D. Cal. Aug. 1, 1988), 627

Dixon v. Bowen [36,027]; Acc. No. 1011978
No. 83 CIV 7001 (WCC) (S.D.N.Y. June 29, 1989), 755

Dockery v. Traughber [45,272]; Acc. No. 1012413
No. 14 (Tenn. Ct. App. June 21, 1989), 1347

Doe, *In re* [44,759]; Acc. No. 1011956
(SSA, Office of Hearings & App., Apr. 25, 1989), 610

Doe, *In re* [45,377]; Acc. No. 1012487
(SSA, Office of Hearings & App., Nov. 27, 1989), 1456

Doe, Adoption of, *In re*
543 So. 2d 741 (Fla. 1989), 707

Doe v. Aiello [45,127]; Acc. No. 1012273
No. 88-0218E (W.D.N.Y. Feb. 17, 1989), 1048

Doe v. Attorney Gen. of United States
723 F. Supp. 452 (N.D. Cal. 1989), 1470

Doe v. Ball
725 F. Supp. 1210 (M.D. Fla. 1989), 1575

Doe v. City of Butler, Pa. [44,660]; Acc. No. 1011832
892 F.2d 315 (3d Cir. 1989), 611, 1573

Doe v. County of Cook [45,246]; Acc. No. 1012384
No. 87 C 6888 (N.D. Ill. Feb. 24, 1988), 1317

Doe v. Department of Pub. Welfare [45,284]; Acc. No. 1012423
No. 89-6972 (Mass. Super. Ct., Middlesex County, Nov. 13, 1989), 1335

Doe v. Hogan [45,412]; Acc. No. 1012548
No. H-88-293 EBB (D. Conn. Dec. 14, 1989), 1563

Doe v. New Hampshire Div. for Children & Youth Servs. [44,723]; Acc. Nos. 1011905; 1012354
564 A.2d 433 (N.H. 1989), 622, 1336

Doe v. Sanders
545 N.E.2d 454 (Ill. App. Ct. 1989), 1376

Doe v. Smith
879 F.2d 1340 (6th Cir. 1989), 989

Doherty v. Southern College of Optometry
862 F.2d 570 (6th Cir. 1988), 84

Dole v. Snell
875 F.2d 802 (10th Cir. 1989), 709

Donahue v. Pendleton Woolen Mills, Inc.
719 F. Supp. 149 (S.D.N.Y. 1988), 1377

Donaldson v. New York [44,366]; Acc. No. 1011540
69

Dorisma v. Florida Unemployment Appeals Comm'n
544 So. 2d 1110 (Fla. Dist. Ct. App. 1989), 716

Dorman v. Eichler [45,327]; Acc. No. 1012447
No. 11158 (Del. Ch. Ct., New Castle County, Dec. 5, 1989), 1461

Doshier v. Doshier
542 So. 2d 853 (La. Ct. App. 1989), 708

Dotson v. St. Mary's Hosp. Corp. [44,514]; Acc. No. 1011684
181

Double D Manor Inc. v. Evergreen Meadows Homeowners' Ass'n
773 P.2d 1046 (Colo. 1989), 710

Drew v. Clarke County School Dist.
877 F.2d 927 (11th Cir. 1989), 989

Dube, *In re* [44,496]; Acc. No. 1011663
209

Dubuque v. Yeutter [44,733]; Acc. Nos. 1011916; 1012281
No. 88-143 (D. Vt. Sept. 8, 1989), 600, 1017

Duck v. Jenkins
375 S.E.2d 178 (S.C. Ct. App. 1988), 83

Duhon v. Arkansas [44,938]; Acc. No. 1012179
774 S.W.2d 830 (Ark. 1989), 1034

Dull v. Delaware County Dep't of Pub. Welfare [43,740]; Acc. No. 1011654
No. 18A02-8705-CV-00200 (Ind. Sup. Ct. Mar. 22, 1989), 189

Duncan v. Bowen [44,258]; Acc. No. 1011727
No. CIV-3-88-606 (E.D. Tenn. Mar. 31, 1989), 331

Duncan v. Corliss [44,968]; Acc. No. 1012262
No. 317-5-89CnC (Vt. Dist. Ct., Chittenden County, Aug. 28, 1989), 1032

Duncan v. Perales [40,991]; Acc. Nos. 1011759; 1011991
No. H-66309 (N.Y. Sup. Ct., Erie County, Apr. 17, 1989); (N.Y. State Dep't of Social Servs. 1989), 317, 743

Duncan v. Sabal Palms I Assocs. [44,209]; Acc. Nos. 1011623; 1012584
183, 1555

Dunn v. Bowen
716 F. Supp. 157 (D.N.J. 1989), 1383

Dunn v. Dunn
380 S.E.2d 836 (S.C. 1989), 987

Dunn v. The Florida Bar
726 F. Supp. 1261 (M.D. Fla. 1988), 1570

Dunn v. White
880 F.2d 1188 (10th Cir. 1989), 993

Dunning v. National Indus., Inc.
720 F. Supp. 924 (M.D. Ala. 1989), 1468

DuPont v. Somerville Hous. Auth. [45,381]; Acc. No. 1012516
1446

Duran v. Carruthers [43,262]
885 F.2d 1492 (10th Cir. 1989); 885 F.2d 1485 (10th Cir. 1989), 1372, 1380

Durrett v. Housing Auth. of Providence [45,445]; Acc. No. 1012578
1555

Duthu v. Sullivan
886 F.2d 97 (5th Cir. 1989), 1382

— E —

E., *In re* [44,627]; Acc. No. 1011811
No. 1213715P (N.Y. Dep't of Social Servs. Aug. 18, 1988), 609

E., *In re* [44,874]; Acc. No. 1012004
No. 88273151 LA (Cal. Dep't of Health Servs. Apr. 24, 1989), 742

Eagle v. Sullivan
877 F.2d 908 (11th Cir. 1989), 996

Eastern Dev. Assocs. v. Corriveau [45,487]; Acc. No. 1012594
No. SPNH 8908-22611 (Conn. Super. Ct., New Haven Jud. Dist., Nov. 17, 1989), 1559

Eastman v. Department of Pub. Aid
534 N.E.2d 458 (Ill. App. Ct. 1989), 214

Ebert v. Lamar Truck Plaza
715 F. Supp. 1496 (D. Colo. 1987), 1376

Echard v. Devine [45,347]; Acc. No. 1012455
726 F. Supp. 1045 (N.D. W. Va. 1989), 1441

Eckart v. Industrial Claims Appeals Office
775 P.2d 97 (Colo. Ct. App. 1989), 997

Ecoff v. Washington State Dep't of Social & Health Servs. [45,047]; Acc. No. 1012503
1440

Eddleman v. Center Township of Marion County
723 F. Supp. 85 (S.D. Ind. 1989), 1476

Edgewood Indep. School Dist. v. Kirby [42,763]
777 S.W.2d 391 (Tex. 1989), 1375

Edwards v. Fenn
775 P.2d 1375 (Or. 1989), 991

Edwards v. Johnston County Health Dep't
885 F.2d 1215 (4th Cir. 1989), 1380

Edwards v. Lateef
558 A.2d 1144 (D.C. 1989), 707

EEOC v. General Tel. Co. [27,713]
885 F.2d 575 (9th Cir. 1989), 1376

EEOC v. Metal Serv. Co.
892 F.2d 341 (3d Cir. 1990), 1572

EEOC v. Switching Sys. Div., Rockwell Int'l [44,747]; Acc. No. 1011934
596

Ellin Corp. v. Township of North Bergen [44,464]; Acc. No. 1011632
193

Ellis v. Carlton [44,767]; Acc. No. 1011961
641

Emanuel v. American Credit Exch. [44,040]; Acc. No. 1011669
870 F.2d 805 (2d Cir. 1989), 175

Employment Sec. Comm'n of Wyo. v. Western Gas Processors [45,450]; Acc. No. 1012596
786 P.2d 866 (Wyo. 1990), 1566

Engles v. Hopkins
709 F. Supp. 495 (S.D.N.Y. 1989), 569

English v. Rubin [44,386]; Acc. No. 1011582
77

English v. Sullivan [44,535]; Acc. No. 1011704
No. 88 Civ. 1322 (PNL) (S.D.N.Y. Apr. 10, 1989), 334

Epps, *In re*
888 F.2d 964 (2d Cir. 1989), 1471

Equitable Life Assurance Soc'y v. Anderson
438 N.W.2d 857 (Iowa Ct. App. 1989), 559

Erdmann v. Rants [44,788]; Acc. No. 1011977
442 N.W.2d 441 (N.D. 1989), 733

Erebia v. Chrysler Plastic Prods. Corp.
891 F.2d 1212 (6th Cir. 1989), 1570

Esparza v. Valdez
862 F.2d 788 (10th Cir. 1988), 89

Esquivel v. McMahon [44,171]; Acc. No. 1011726
No. 360539 (Cal. Super. Ct., Sacramento County, Apr. 17, 1989), 342

Estrada v. Donnelly Corp.
708 F. Supp. 834 (W.D. Mich. 1988), 563

Eva, *In re* [45,292]; Acc. No. 1012439
(SSA, Office of Hearings & App., Nov. 24, 1989), 1327

Evans v. Summs [45,376]; Acc. No. 1012488
No. 88-0774-R (E.D. Va. May 2, 1989), 1436

Evans v. Travelers Cos. [44,677]; Acc. Nos. 1011846; 1012083
592, 730

Evans v. Wall
542 So. 2d 1055 (Fla. Dist. Ct. App. 1989), 566

Ewing v. Douglas [45,271]; Acc. No. 1012412
No. 2 (Tenn. Ct. App. Mar. 28, 1989), 1309

Executive Comm'n on Ethical Standards, *In re*
561 A.2d 542 (N.J. 1989), 985

— F —

F., *In re* [44,580]; Acc. No. 1011743
No. 88-SHCL-185 (Ohio Dep't of Human Servs. Nov. 29, 1988), 343

F., *In re* [44,661]; Acc. No. 1011827
(Ohio Unemployment Compensation Board of Review Dec. 28, 1988), 634

F., D.D., *In re*
784 P.2d 89 (Okla. Ct. App. 1989), 1572

F., R.L., *In re*
437 N.W.2d 599 (Iowa Ct. App. 1989), 567

F., T.N., Adoption of, *In re*
781 P.2d 973 (Alaska 1989), 1471

Facilities Review Panel v. Greiner
382 S.E.2d 527 (W. Va. 1989), 1471

Facio v. Jones
714 F. Supp. 504 (D. Utah 1989), 986

Falcon v. Williams County Social Serv. Bd.
430 N.W.2d 569 (N.D. 1988), 85

Faretra v. Caniono-Siegrist [44,976]; Acc. No. 1012125
No. 88-3454 (Mass. Super. Ct., Suffolk County, Aug. 8, 1989), 914

Farrell v. Sullivan
878 F.2d 985 (7th Cir. 1989), 994

Favreau v. Department of Employment & Training
557 A.2d 909 (Vt. 1989), 571

Fedderly v. Wisconsin Dep't of Health & Social Servs. [44,731]; Acc. No. 1011912
608

Federal Emergency Management Agency, *In re* [45,235]; Acc. No. 1012380
1320

Federal Labor Relations Auth. v. Department of Treasury
884 F.2d 1446 (D.C. Cir. 1989), 1376

Feigley v. Fulcomer
720 F. Supp. 475 (M.D. Pa. 1989), 1472

Fenelon v. Talisman Sugar Corp. [45,442]; Acc. No. 1012569
No. 88-8430-CIV-PAINE (S.D. Fla. Dec. 4, 1989), 1549

Fenimore, Marriage of, *In re*
782 P.2d 872 (Colo. Ct. App. 1989), 1467

Fenn v. Sullivan [45,277]; Acc. Nos. 1012416; 1012555
No. 88-151 (D. Vt. Aug. 8, 1989); (D. Vt. Nov. 20, 1989), 1344, 1546

Fenton v. Miller [44,882]; Acc. No. 1012048
No. 89-C-1465 (W. Va. Cir. Ct., Kanawha County, May 1, 1989), 766

Ferguson v. Sullivan
718 F. Supp. 1269 (W.D.N.C. 1989), 1383

Fermaint v. New York City Hous. Auth.
708 F. Supp. 92 (S.D.N.Y. 1989), 565

Fidelity Fin. Servs. v. Hicks [44,607]; Acc. No. 1011783
305

Fields v. Johnson [44,465]; Acc. No. 1011628
189

Figueroa v. Market Training Inst. [43,212]; Acc. No. 1011723
No. 4539/88 (N.Y. Sup. Ct., Kings County, Mar. 8, 1989), 311

Figueroa v. Sunn [45,084]; Acc. No. 1012239
884 F.2d 1290 (9th Cir. 1989), 1047

Finkelstein v. Bowen
869 F.2d 215 (3d Cir. 1989), 289

First Family Mortgage Corp. of Fla. v. Crane [44,536]; Acc. No. 1011706
No. C-2-84-898 (S.D. Ohio Feb. 13, 1989), 300

Fisher v. Koehler [44,440]
718 F. Supp. 1111 (S.D.N.Y. 1989), 1381

Fisher v. Quaker Oats Co.
559 A.2d 1 (N.J. Super. Ct. App. Div. 1989), 710

Fiskewold v. H.M. Smyth Co., Inc.
440 N.W.2d 164 (Minn. Ct. App. 1989), 716

Fitelson v. 889-5th Ave. Realty [44,578]; Acc. No. 1011745
No. 20 K (N.Y. Sup. Ct., App. Div., Feb. 2, 1989), 328

Fitzgerald v. Fitzgerald
566 A.2d 719 (D.C. 1989), 1466

Flannery v. Pennsylvania Unemployment Compensation Bd. of Review
557 A.2d 52 (Pa. Commw. Ct. 1989), 572

Fleet v. Rhode [44,678]; Acc. No. 1011851
591

Fleet v. United States Consumer Council [34,775]; Acc. No. 1011853
591

Fletes v. John I. Hass, Inc. [44,720]; Acc. No. 1011901
No. 89-85FR (D. Or. June 2, 1989), 624

Flores v. Concannon [44,141]; Acc. No. 1012023
No. 88-6425-E (D. Or. June 6, 1989), 740

Florida v. Andres
552 So. 2d 1151 (Fla. Dist. Ct. App. 1989), 1571

Florida Dep't of Health & Rehabilitative Servs. v. D'Andrea
542 So. 2d 1369 (Fla. Dist. Ct. App. 1989), 716

Florida *ex rel.* Pittman v. Stanjeski
541 So. 2d 1214 (Fla. Ct. App. 1989), 708

Flowers v. Smith
726 F. Supp. 141 (S.D. Miss. 1988), 1573

Fogel v. Bowen [45,357]; Acc. No. 1012464
No. 87-5498 (E.D. Pa. Apr. 12, 1989), 1455

Food Research & Action Center, *In re* [45,075]; Acc. No. 1012252
(LSC Sept. 21, 1989), 1009

Forbes v. White [45,048]; Acc. No. 1012207
1048

Ford v. Lane
714 F. Supp. 310 (N.D. Ill. 1989), 993

Foreman v. Anchorage Equal Rights Comm'n
779 P.2d 1199 (Alaska 1989), 1471

Fosco v. YMCA of Lansing [44,551]; Acc. No. 1011721
327

Foster v. Bowen [44,495]; Acc. Nos. 1011664; 1011922
No. 88-0064 P (D. Me. Dec. 8, 1988); (D. Me. Mar. 14, 1989), 198, 628

Foster v. Gatson
381 S.E.2d 380 (W. Va. 1989), 997

Four Hundred Forty Seven Assocs. v. Miranda
559 A.2d 1362 (N.J. 1989), 992

Four Queens, Inc. v. Nevada Employment Sec. Dep't, Bd. of Review
769 P.2d 49 (Nev. 1989), 221

Fowler v. K Mart Corp. [44,662]; Acc. No. 1011828
No. 4015 (Ohio Ct. App. Oct. 24, 1988), 597

Fox v. Bowen
708 F. Supp. 496 (E.D.N.Y. 1989), 571

Fragmin v. Gatson
383 S.E.2d 84 (W. Va. 1989), 997

Frank v. Kizer [44,157]; Acc. No. 1011771
315

Frank v. Unemployment Compensation Bd. of Review
556 A.2d 15 (Pa. Commw. Ct. 1989), 290

Frazee v. Illinois Dep't of Employment Sec.
109 S. Ct. 1514 (1989), 221

Frazier v. Marine Midland Bank
702 F. Supp. 1000 (W.D.N.Y. 1988), 214

Frederick County Fruit Growers Ass'n v. McLaughlin
703 F. Supp. 1021 (D.D.C. 1989), 218

Frederick County Fruit Growers Ass'n v. Dole
709 F. Supp. 242 (D.D.C. 1989), 566

Freel, *In re*
448 N.W.2d 26 (Iowa 1989), 1466

Freemyer v. Sullivan
723 F. Supp. 1417 (D. Kan. 1989), 1474

Frei v. Pennsylvania Unemployment Compensation Bd. of Review
551 A.2d 669 (Pa. Commw. Ct. 1988), 89

French v. Bowen
708 F. Supp. 644 (M.D. Pa. 1989), 559

French v. Cohn [32,778]; Acc. No. 1011517
No. IP 75-677-C (S.D. Ind. June 1, 1988), 71

French v. Whitfield [44,962]; Acc. No. 1012111
912

Friedman v. Young
702 F. Supp. 433 (S.D.N.Y. 1988), 87

Friedrich v. City of Chicago [45,199]; Acc. No. 1012340
888 F.2d 511 (7th Cir. 1989), 1305

Frierson v. Pierce [45,078]; Acc. No. 1012240
No. 88-4431 (D.N.J. July 13, 1989), 1028

Fritz v. White
711 F. Supp. 1350 (E.D. Pa. 1989), 706

FTC v. Green Tree Acceptance [44,327]; Acc. No. 1012056
731

Fuentes v. White
709 F. Supp. 1026 (D. Kan. 1989), 558

Fullan v. Commissioner of Corrections
891 F.2d 1007 (2d Cir. 1989), 1570

Fulton v. Commonwealth of Pa. Unemployment Compensation Bd. of Review
559 A.2d 996 (Pa. Commw. Ct. 1989), 716

— G —

G., B. v. Cranford Bd. of Educ.
702 F. Supp. 1140 (D.N.J. 1988), 216

Gaglia v. First Fed. Sav. & Loan Ass'n
889 F.2d 1304 (3d Cir. 1989), 1464

Gagne v. Bordeleau [44,402]; Acc. No. 1011583
78

Gagnon v. Atkins [43,814]; Acc. No. 1012005
No. 88-0090-XX (D. Mass. May 11, 1989), 736

Gallatin Hous. Auth. v. Gifford [45,005]; Acc. No. 1012168
No. 89-25-II (Tenn. Ct. App. Aug. 30, 1989), 1031

Gameros-Hernandez v. INS
883 F.2d 839 (9th Cir. 1989), 1379

Games v. Cavazos [44,697]; Acc. No. 1011872
590

Games v. United Student Aid Funds [44,696]; Acc. No. 1011871
590

Garcia v. Anthony [45,109]; Acc. No. 1012261
1031

Garcia v. Bowen
702 F. Supp. 409 (S.D.N.Y. 1988), 82

Garcia v. Jiminez
539 N.E.2d 1356 (Ill. App. Ct. 1989), 992

Garcia v. Sullivan
874 F.2d 1006 (5th Cir. 1989), 714

Gardner v. Magnant [44,430]; Acc. No. 1011590
205

Garner v. Secretary, Cabinet for Human Resources [44,367]; Acc. Nos. 1011555; 1011773
No. 88-CI-168 (Ky. Cir. Ct., Russell County, Mar. 2, 1989); No. 88-053 (Cabinet for Human Resources Apr. 26, 1989), 63, 318

Garrett v. City of East Cleveland [44,444]; Acc. No. 1011617
No. 1: 89CV0470 (N.D. Ohio Mar. 16, 1989), 196

Garrett v. Lyng [23,198]
877 F.2d 472 (6th Cir. 1989), 989

Gaskin v. Coler [44,713]; Acc. No. 1011893
599

Gassler v. Rayl
862 F.2d 706 (8th Cir. 1988), 87

General Motors Corp. v. Abrams
703 F. Supp. 1103 (S.D.N.Y. 1989), 214

George v. City of St. Louis
720 F. Supp. 144 (E.D. Mo. 1989), 1377

George v. Sullivan [44,668]; Acc. Nos. 1011837; 1012408
No. B-88-3217 (D. Md. Nov. 10, 1989), 629, 1343

George v. Woodman [44,502]; Acc. No. 1011672
No. 89 E 0032 (Mass. Dist. Ct., Norfolk County, Mar. 20, 1989), 192

Georgia v. McAfee
385 S.E.2d 651 (Ga. 1989), 1469

Gerhardt v. Estate of Moore
441 N.W.2d 734 (Wis. 1989), 987

Giano v. Sullivan
709 F. Supp. 1209 (S.D.N.Y. 1989), 713

Gibson v. Gibson
536 So. 2d 1139 (Fla. Ct. App. 1988), 83

Gidcomb v. Sullivan [45,333]; Acc. No. 1012451
No. 854-298-CIV-J-14 (M.D. Fla. Dec. 1, 1989), 1453

Gilbert v. Review Bd. of Ind. Dep't of Employment Training & Servs. [44,293]; Acc. No. 1011523
No. 93A02-8802-EX-00055 (Ind. Ct. App. May 26, 1988), 75

Giles v. Housing Auth. of Frankfort [45,074]; Acc. No. 1012543
1556

Gilland v. Owens
718 F. Supp. 665 (W.D. Tenn. 1989), 1381

Gillen v. Putnam County Dep't of Health [44,160]; Acc. No. 1011690
No. 3737/89 (N.Y. Sup. Ct., Westchester County, Apr. 5, 1989), 321

Gillette v. Fairland Bd. of Educ.
725 F. Supp. 343 (S.D. Ohio 1989), 1572

Gilliam v. Housing Auth. of Mt. Sterling [44,434]; Acc. No. 1011604
No. 88-96 (E.D. Ky. Jan. 20, 1989), 184

Gillman v. Housing Auth. of Mingo County [45,411]; Acc. No. 1012547
No. 3:87-0803 (S.D. W. Va. Dec. 21, 1989), 1559

Gilmerr v. Pierce [41,783]; Acc. No. 1011531
No. 88-3189 (6th Cir. Dec. 9, 1988), 63

Gilson v. Cox
711 F. Supp. 354 (E.D. Mich. 1989), 713

Gittens v. Sullivan
720 F. Supp. 40 (S.D.N.Y. 1989), 1381

Glenn v. Oklahoma Employment Sec. Comm'n
782 P.2d 150 (Okla. Ct. App. 1989), 1475

Glover v. Johnson [44,864]; Acc. No. 1011988
740

Glover v. Johnson [23,446]
721 F. Supp. 808 (E.D. Mich. 1989), 1472

GMAC Mortgage Corp. of Pa. v. Watford [44,562]; Acc. No. 1011899
No. 2697 (Pa. C.P. Ct., Philadelphia County, Jan. 27, 1988), 619

Goldring v. Department of Human Resources [44,793]; Acc. No. 1012069
766

Gonzales v. AM Community Credit Union
442 N.W.2d 536 (Wis. Ct. App. 1989), 986

Gonzalez v. Bowen
715 F. Supp. 412 (D.P.R. 1988), 1383

Gonzalez v. Illinois Human Rights Comm'n
534 N.E.2d 544 (Ill. App. Ct. 1989), 216

Gonzalez v. North Am. College of La., Inc. [42,977]
700 F. Supp. 362 (S.D. Tex. 1988), 83

Gonzalez v. Puente
705 F. Supp. 331 (W.D. Tex. 1988), 218

Gonzalez v. St. Margaret's Hous. Dev. Fund
880 F.2d 1514 (2d Cir. 1989), 990

Gonzalez v. Sullivan [42,747]; Acc. No. 1011854
No. 87-C-572 (E.D. Wis. May 4, 1989), 632

Goodman v. Sullivan
891 F.2d 449 (2d Cir. 1989), 1573

Goodwin v. District Court [45,126]; Acc. No. 1012274
779 P.2d 837 (Colo. 1989), 1010

Gorman v. Moody
710 F. Supp. 1256 (N.D. Ind. 1989), 713

Gormas v. Bowen
713 F. Supp. 234 (W.D. Mich. 1989), 996

Gorski v. Troy
714 F. Supp. 367 (N.D. Ill. 1989), 990

Goss v. Goss
780 P.2d 306 (Wyo. 1989), 1466

Gossett v. Bowen
862 F.2d 802 (10th Cir. 1988), 88

Grace, *In re* [45,177]; Acc. No. 1012311
No. 8989 (Vt. Human Servs. Bd. Sept. 22, 1989), 1320

Graham v. Bowen
707 F. Supp. 118 (W.D.N.Y. 1989), 290

Graham v. Security Sav. & Loan [43,466]; Acc. No. 1012078
125 FRD 687 (N.D. Ind. Mar. 7, 1989), 734

Grant v. Cuomo
534 N.E.2d 32 (N.Y. 1988), 217

Grant v. Sullivan [44,741]; Acc. Nos. 1011927; 1012080
720 F. Supp. 462 (M.D. Pa. 1989), 631, 755

Gratta v. Unemployment Compensation Bd. of Review
555 A.2d 270 (Pa. Commw. Ct. 1989), 290

Gray Panthers Advocacy Comm. v. Sullivan [40,913]; Acc. Nos. 1011577; 1011841; 1012138
89-0605 (D.D.C. July 25, 1989), 61, 605, 898

Gray v. HUD [45,473]; Acc. No. 1012601
No. 89-CV-71860 DT (E.D. Mich. Jan. 25, 1990), 1558

Gray v. Rankin
721 F. Supp. 115 (S.D. Miss. 1989), 1465

Gray v. Romeo
709 F. Supp. 325 (D.R.I. 1989), 559

Grayson v. Coler [44,446]; Acc. No. 1011616
180

Green Tree Acceptance, Inc. v. Pierce
768 S.W.2d 416 (Tex. Ct. App. 1989), 560

Green v. Bowen
877 F.2d 204 (2d Cir. 1989), 985

Green v. Chicago Hous. Auth. [44,669]; Acc. Nos. 1011836; 1012117
No. 89 C 3336 (N.D. Ill. July 21, 1989), 613, 901

Green v. Green
562 A.2d 1214 (D.C. 1989), 986

Greenhow v. Secretary of HHS
863 F.2d 633 (9th Cir. 1988), 88

Greenspan, Estate of, *In re* [45,086]; Acc. No. 1012231
1022

Gregory v. Gregory [45,110]; Acc. No. 1012254
1009

Grider v. Cavazos [45,214]; Acc. No. 1012339
1312

Griffin v. American Defender Life Ins. [44,823]; Acc. No. 1012504
1438

Griffin v. Federal Land Bank of Wichita
708 F. Supp. 313 (D. Kan. 1989), 569

Griffin v. Prince William Hosp. Corp.
716 F. Supp. 919 (E.D. Va. 1989), 1377

Grimes v. Springfield Hous. Auth. [45,213]; Acc. No. 1012336
No. 89-LE-3664 (Hampden Hous. Ct. Oct. 13, 1989), 1334

Grimesy v. Huff [42,041]
876 F.2d 738 (9th Cir. 1989), 716

Growells v. Mid-Penn Consumer Discount Co. (*In re* Growells) [44,913]; Acc. No. 1012060
No. 87-02714F (Bankr. E.D. Pa. July 26, 1989), 730

Guidice v. Jackson [44,883]; Acc. Nos. 1012032; 1012474
726 F. Supp. 632 (E.D. Va. 1989), 765, 1458

Guidotti v. County of Yolo [40,727]; Acc. No. 1012470
No. 3 Civil C002157 (Cal. Ct. App. Sept. 21, 1989), 1459

Guillory v. Fuselier
549 So. 2d 920 (La. Ct. App. 1989), 1375

Gulley v. Patterson [43,867]; Acc. No. 1011990
No. LR-C-88-563 (E.D. Ark. June 26, 1989), 762

Guthmiller v. Guthmiller
448 N.W.2d 643 (N.D. 1989), 1571

Gutierrez v. Bowen
702 F. Supp. 1050 (S.D.N.Y. 1989), 220

Guyton v. City of Alameda [44,257]; Acc. No. 1011718
No. 646480-8 (Cal. Super. Ct., Alameda County, Apr. 13, 1989), 321

Guzman v. Secretary of HHS [44,725]; Acc. No. 1011908
No. CV 86-3210 (E.D.N.Y. June 1, 1989), 629

— H —

H., *In re* [44,450]; Acc. No. 1011621
(Iowa Dep't of Human Servs. Jan. 9, 1989), 182

H., *In re* [44,466]; Acc. No. 1011631
(SSA, Office of Hearings & App., Jan. 11, 1988), 202

H., *In re* [44,718]; Acc. No. 1011898
(Ohio Unemployment Compensation Bd. of Review, Oct. 12, 1988), 634

H., *In re* [45,056]; Acc. No. 1012209
(SSA, Office of Hearings & App., July 31, 1989), 1025

H. v. Carroll [45,234]; Acc. No. 1012390
No. 86-6852 (E.D. Pa. Nov. 9, 1989), 1321

H. v. Department of Health & Rehabilitative Servs. [44,724]; Acc. No. 1011903
589

H. v. Edwards [43,132]; Acc. No. 1011891
601

H. v. Johnson [45,092]; Acc. No. 1012251
No. 88 C 5599 (N.D. Ill. May 30, 1989), 1033

H., J., *In re*
770 P.2d 1355 (Colo. Ct. App. 1989), 566

H., J.H. v. O'Hara
878 F.2d 240 (8th Cir. 1989), 991

H., Jonathan v. Margaret H.
771 S.W.2d 111 (Mo. Ct. App. 1989), 711

H., Michael v. Gerald D.
109 S. Ct. 2333 (1989), 561

Hadix v. Johnson
712 F. Supp. 550 (E.D. Mich. 1989), 713

Haines v. Athey [44,077]; Acc. No. 1011725
553 A.2d 690 (Md. Ct. App. 1989), 326

Haitian Refugee Center, Inc. v. Nelson
872 F.2d 1555 (11th Cir. 1989), 559

Halderman v. Pennhurst State School & Hosp. [12,902]
725 F. Supp. 861 (E.D. Pa. 1989), 1570

Hall v. Bowen [44,352]; Acc. No. 1011541
73

Hall v. Cook County, Ill.
719 F. Supp. 721 (N.D. Ill. 1989), 1376

Hamilton v. School Comm. of Boston
725 F. Supp. 641 (D. Mass. 1989), 1573

Hamilton v. Vigo County Dep't of Pub. Welfare [44,690]; Acc. No. 1011865
640

Hamm v. Secretary of HHS
704 F. Supp. 357 (W.D.N.Y. 1989), 220

Hammock v. Bowen
867 F.2d 1209 (9th Cir. 1989); 879 F.2d 498 (9th Cir. 1989), 220, 995

Hamro v. Contreras [45,173]; Acc. No. 1012313
1318

Han v. Bowen
882 F.2d 1453 (9th Cir. 1989), 1382

Handeen v. LeMaire (*In re* LeMaire)
883 F.2d 1373 (8th Cir. 1989), 1373

Hankerson v. Coler [44,899]; Acc. No. 1012036
No. 88-6091-CIV-Roettger (S.D. Fla. July 25, 1989), 739

Hankins v. Hickman [44,497]; Acc. No. 1011666
190

Hanks, *In re*
553 A.2d 1171 (Del. 1989), 217

Hann v. Housing Auth. of Easton
709 F. Supp. 605 (E.D. Pa. 1989), 565

Hansley v. Bowen
708 F. Supp. 724 (E.D.N.C. 1989), 571

Hanson v. Clark County, Iowa
867 F.2d 1115 (8th Cir. 1989), 216

Hardges v. Director, Mich. Dep't of Social Servs. [44,789]; Acc. No. 1011973
No. 106486 (Mich. Ct. App. June 19, 1989), 737

Hardin v. Straub
109 S. Ct. 1998 (1989), 559

Harper, Marriage of, *In re*
547 N.E.2d 574 (Ill. App. Ct. 1989), 1572

Harper v. Federal Land Bank of Spokane
878 F.2d 1172 (9th Cir. 1989), 990

Harrell v. Bowen
862 F.2d 471 (5th Cir. 1988), 88

Harris v. Kyle [44,583]; Acc. No. 1011750
No. CA-388 (Ohio Ct. App. Dec. 12, 1988), 303

Harris v. Seattle Hous. Auth. [44,987]; Acc. No. 1012263
1030

Harrison v. Sobol
705 F. Supp. 870 (S.D.N.Y. 1988), 285

Harrison v. Town of Old Saybrook [44,685]; Acc. Nos. 1011858; 1012588
No. N-89-142 (JAC) (D. Conn. Dec. 20, 1989), 611, 1555

Harshaw v. Grace Convalescent Center [44,593]; Acc. No. 1011760
No. 87-711603-AE (Mich. Cir. Ct., Wayne County, Oct. 4, 1988), 339

Hart v. Bowen [44,467]; Acc. No. 1011630
No. 87-719-Civ-Orl-18 (M.D. Fla. Feb. 28, 1989), 197

Hartford Hous. Auth. v. Montford [44,379]; Acc. No. 1011566
No. 8803-43435 (Conn. Super. Ct., Hartford-New Britain, Feb. 27, 1989), 66

Hatcher v. Department of Health & Rehabilitative Servs.
545 So. 2d 400 (Fla. Dist. Ct. App. 1989), 990

Hawkins v. Kemp [45,485]; Acc. No. 1012595
1558

Hawkins v. Thorp Credit & Thrift Co.
441 N.W.2d 470 (Minn. 1989), 986

Hawley v. Evans
716 F. Supp. 601 (N.D. Ga. 1989), 1381

Hayes v. Unified School Dist. No. 377
877 F.2d 809 (10th Cir. 1989), 988

Haywood v. Sullivan
888 F.2d 1463 (5th Cir. 1989), 1473

Hazelton v. Questa Vida Homeowners Ass'n [44,563]; Acc. No. 1011730
327

HCA Health Servs. of Va. v. Peters [44,663]; Acc. No. 1011829
No. CL88000117 (Va. Cir. Ct., City of Salem, May 9, 1989), 584

Head v. Jellico Hous. Auth. [42,444]; Acc. No. 1011656
870 F.2d 1117 (6th Cir. 1989), 183

Headlee v. Bowen [42,485]
869 F.2d 548 (10th Cir. 1989), 283

Healea v. Bowen [42,500]; Acc. No. 1011728
871 F.2d 48 (7th Cir. 1989), 332

Heape, *In re*
886 F.2d 280 (10th Cir. 1989), 1373

Heastie v. Community Bank of Greater Peoria [43,723]; Acc. Nos. 1011860; 1012268
No. 88 C 0358 (N.D. Ill. May 22, 1989); (N.D. Ill. Sept. 7, 1989), 590, 1011

Heath v. DeCourcy [42,342]; Acc. No. 1012471
888 F.2d 1105 (6th Cir. 1989), 1452

Heideman v. PFL, Inc.
710 F. Supp. 711 (W.D. Mo. 1989), 709

Heimberger v. School Dist. of City of Saginaw [43,026]
881 F.2d 242 (6th Cir. 1989), 988

Heine v. Receiving Area Personnel
711 F. Supp. 178 (D. Del. 1989), 712

Helmick v. Cincinnati Word Processing [44,226]; Acc. No. 1012142
543 N.E.2d 1212 (Ohio 1989), 896

Helms v. Essex County Div. of Welfare [44,482]; Acc. No. 1011645
208

Hemon v. Office of Pub. Guardian
878 F.2d 13 (1st Cir. 1989), 994

Henderson, *In re*
(SSA, Office of Hearings & App., Dec. 21, 1989), 1457

Henderson v. Credit Bureau of Lockport [45,349]; Acc. No. 1012457
1436

Hendricks v. Gilhool [44,468]; Acc. No. 1011629
709 F. Supp. 1362 (E.D. Pa. 1989), 180

Hendrix v. Evans
715 F. Supp. 897 (N.D. Ind. 1989), 1381

Henne v. Wright
711 F. Supp. 511 (D. Neb. 1989), 711

Henning v. Industrial Welfare Comm'n
762 P.2d 442 (Cal. 1988), 84

Henshaw v. Bowen
709 F. Supp. 153 (S.D. Iowa 1989), 571

Henson v. District of Columbia Dep't of Consumer & Regulatory Affairs
560 A.2d 543 (D.C. 1989), 994

Henson v. Washington Employment Sec. Dep't
779 P.2d 715 (Wash. 1989), 1475

Herbert v. Pennsylvania Unemployment Compensation Bd. of Review [45,159]; Acc. No. 1012295
554 A.2d 616 (Pa. Commw. Ct. 1989), 221, 1348

Heredia v. Illinois Dep't of Pub. Aid [44,973]; Acc. No. 1012128
No. 88 CH 5109 (Ill. Cir. Ct., Cook County, Jan. 24, 1989), 899

Heritage Hills v. Deacon [44,664]; Acc. No. 1011830
615

Heritage House Partnership v. Frazier [45,080]; Acc. No. 1012238
No. 86 C 4072 (Kan. Dist. Ct., Johnson County, Feb. 8, 1989), 1024

Hernandez v. Cremer [44,584]; Acc. No. 1011753
324

Hernandez v. Monterey Village Assocs. [39,523]
553 A.2d 617 (Conn. App. Ct. 1989), 214

Hernandez v. Palmer [45,260]; Acc. No. 1012371
1319

Hernandez v. Statewide Credit & Collection Bureau [44,575]; Acc. No. 1011820
590

Hernandez-Garza v. INS
882 F.2d 945 (5th Cir. 1989), 1379

Herrera, Marriage of, *In re*
772 P.2d 676 (Colo. Ct. App. 1989), 561

Herrin v. Newton Cent. Appraisal Dist.
706 F. Supp. 511 (E.D. Tex. 1988), 285

Hession v. Illinois Dep't of Pub. Aid [42,987]
544 N.E.2d 751 (Ill. 1989), 1470

Hester v. Secretary of HHS [44,571]; Acc. No. 1011738
332

Hewett v. Gonzalez-Correa [45,156]; Acc. No. 1012292
No. B033239 (Cal. Ct. App. Aug. 21, 1989), 1332

Hi-Valley Dev. Corp. v. Ulbrich [44,996]; Acc. No. 1012150
903

Hicks v. Bowen
702 F. Supp. 648 (N.D. Ill. 1988), 81

Hicks v. Enlow
764 S.W.2d 68 (Ky. 1989), 214

Higgs v. Bowen
880 F.2d 860 (6th Cir. 1988), 994

Highgate Assocs. v. Merryfield [45,382]; Acc. No. 1012508
No. 79-4-88WnC (Vt. Dist. Ct., Washington County, Dec. 15, 1989), 1451

Hill v. Chambers [44,294]; Acc. Nos. 1011524; 1012574
64, 1556

Hill v. Farm Credit Bank of St. Louis
726 F. Supp. 1201 (E.D. Mo. 1989), 1574

Hill v. Merritt
See Hill v. Chambers

Hill v. Sullivan [42,871]; Acc. No. 1011610
No. 87 Civ. 4344 (JMW) (S.D.N.Y. Mar. 14, 1989), 198

Hills v. Secretary of HHS
726 F. Supp. 434 (E.D.N.Y. 1989), 1570

Hillview Assoc. v. Bloomquist
440 N.W.2d 867 (Iowa 1989), 711

Hilton v. City of New Haven [44,705]; Acc. Nos. 1011875; 1012021; 1012500
No. CVNH 8904-3165 (Conn. Super. Ct., New Haven, Dec. 27, 1989), 617, 746, 1449

Hines v. Bowen
872 F.2d 56 (4th Cir. 1989), 570

Hintz v. Dane County [44,469]; Acc. No. 1011635
No. 87-CV-5292 (Wis. Cir. Ct., Dane County, Dec. 19, 1988), 209

Hockenhull v. Bowen
723 F. Supp. 555 (D. Colo. 1989), 1474

Hodge v. HUD [42,380]
862 F.2d 859 (11th Cir. 1988), 85

Hoffman v. Foley
541 So. 2d 145 (Fla. Ct. App. 1989), 708

Hoffman v. Otwell [43,637]; Acc. No. 1012361
No. 88 C 4163 (N.D. Ill. Nov. 8, 1989), 1341

Hofmaster, *In re*
434 N.W.2d 279 (Minn. Ct. App. 1989), 86

Hollinrake v. Iowa Dep't of Human Servs.
444 N.W.2d 95 (Iowa Ct. App. 1989), 989

Holman v. Sullivan [24,449]; Acc. No. 1012580
No. 78-0494 (M.D. Pa. Jan. 5, 1990), 1564

Holt v. Bowen [44,479]; Acc. Nos. 1011642; 1011794
712 F. Supp. 813 (D. Colo. 1989); No. 88-F-1457 (D. Colo. Apr. 17, 1989), 197, 333

Homestead Sav. v. Parnell [45,289]; Acc. No. 1012442
No. C2-87-1524 (S.D. Ohio Oct. 13, 1989), 1308

Hooks v. Hooks
762 P.2d 846 (Kan. Ct. App. 1988), 83

Hooper v. Sullivan [28,898]; Acc. No. 1012072
No. H-80-99 (PCD) (D. Conn. July 20, 1989), 739

Hopkins v. Colorado
772 P.2d 624 (Colo. Ct. App. 1988), 566

Horizon Hous. Dev. Servs. v. Township of Upper Southampton [45,191]; Acc. No. 1012433
1330

Housing Auth. of Lake Charles v. Pappion
540 So. 2d 567 (La. Ct. App. 1989), 565

Housing Auth. of Pittsburgh v. Green
552 A.2d 748 (Pa. Commw. Ct. 1989), 85

Housing Auth. of Raleigh v. McCleain
379 S.E.2d 104 (N.C. Ct. App. 1989), 565

Houston v. City of Cocoa [44,272]; Acc. No. 1012499
No. 89-82-CIV-ORL-19 (M.D. Fla. Dec. 22, 1989), 1445

Houtz v. Deland
718 F. Supp. 1497 (D. Utah 1989), 1381

Howard v. Adkison
887 F.2d 134 (8th Cir. 1989), 1472

Howard v. Richardson
778 P.2d 1356 (Ariz. Ct. App. 1989), 1374

Hoyesen v. Prete [43,364]; Acc. No. 1011856
No. N-88-128 (TFGD) (D. Conn. Feb. 6, 1989), 612

Huberman v. Perales [42,241]; Acc. No. 1012216
884 F.2d 62 (2d Cir. 1989), 1016

Huddleston v. Secretary of HHS [44,503]; Acc. No. 1011677
199

Huderson v. HUD (*In re* Huderson) [45,100]; Acc. No. 1012280
No. 84-01172S (Bankr. E.D. Pa. Feb. 16, 1989), 1029

Hudman v. Kizer [44,915]; Acc. No. 1012068
741

Hudson v. Bowen
870 F.2d 1392 (8th Cir. 1989), 570

Hudson v. Sullivan
717 F. Supp. 340 (W.D. Pa. 1989), 1383

Huett v. Bowen
873 F.2d 1153 (8th Cir. 1989), 558

Hughes v. Housing Auth. of Dallas [45,471]; Acc. No. 1012597
1559

Hungerford v. Michigan Ins. Bureau [44,957]; Acc. No. 1012225
(Mich. Health Facilities & Agencies Advisory Comm'n July 31, 1989), 1026

Hunt v. Kizer [44,761]; Acc. Nos. 1011957; 1012183; 1012478
No. S-89-836 EJG/JFM (E.D. Cal. Aug. 28, 1989); (E.D. Cal. Dec. 18, 1989), 603, 1020, 1442

Hunt v. Van Cura [44,084]; Acc. No. 1011999
No. 88-1654-A (S.D. Iowa July 17, 1989), 753

Hunter v. Sullivan
719 F. Supp. 462 (W.D. Va. 1989), 1383

Hurd v. Bowen [44,863]; Acc. No. 1011987
No. 87-8459 (E.D. Pa. May 19, 1989), 756

Hurley v. Board of Review of the Indus. Comm'n of Utah [44,383]; Acc. No. 1011576
767 P.2d 524 (Utah 1988), 75

Huskey v. New Jersey Dep't of Human Servs. [45,236]; Acc. No. 1012391
No. HPW 5154-87 (N.J. Dep't of Human Servs., Div. of Pub. Welfare, May 10, 1989), 1357

Hutchins v. Kentucky Unemployment Ins. Comm'n [44,884]; Acc. No. 1012015
760

Hutchinson v. Ratzlaff [43,825]; Acc. No. 1012140
No. 88-C-779 (D. Colo. Aug. 22, 1989), 901

Hutsell v. Sullivan
892 F.2d 747 (8th Cir. 1989), 1574

Hyatt v. Heckler
See Hyatt v. Sullivan

Hyatt v. Sullivan [35,159]
711 F. Supp. 833 (W.D.N.C. 1989); 711 F. Supp. 837 (W.D.N.C. 1989), 706, 715

Hyden v. Board of Educ. of Wilson County
714 F. Supp. 290 (M.D. Tenn. 1989), 985

— I —

Idaho Dep't of Health & Welfare *ex rel.* Bowler v. Bowler
782 P.2d 63 (Idaho Ct. App. 1989), 1476

Illinois v. City of East St. Louis [44,585]; Acc. No. 1011751
313

Illinois v. Madison [44,896]; Acc. No. 1012039
No. 88-123613 (Ill. Cir. Ct., Cook County, Aug. 3, 1989), 727

Illinois v. Woodstock Assocs., I [45,361]; Acc. No. 1012396
1321

Illinois *ex rel.* Browning v. Melton
536 N.E.2d 133 (Ill. App. Ct. 1989), 572

Illinois Health Care Ass'n v. Suter
719 F. Supp. 1419 (N.D. Ill. 1989), 1378

Illinois *ex rel.* Kelly v. Pasko
540 N.E.2d 462 (Ill. App. Ct. 1989), 987

Illinois State Bar Ass'n Ethics Opinion re Conflict of interest, *In re* [44,726]; Acc. No. 1011909
No. 87-13 (Ill. State Bar Ass'n May 19, 1988), 585

Immigration Assistance Project v. INS
709 F. Supp. 998 (W.D. Wash. 1989); 717 F. Supp. 1444 (W.D. Wash. 1989), 566, 1379

In-Home Health Servs., *In re* [43,334]; Acc. Nos. 1011660; 1012365
(SSA, Office of Hearings & App., Jan. 24, 1989); (SSA, Office of Hearings & App., Oct. 13, 1989), 183, 1328

Indiana Civil Rights Comm'n v. Southern Ind. Gas & Elec.
544 N.E.2d 536 (Ind. Ct. App. 1989), 1378

Indiana Dep't of Pub. Welfare v. Foster [45,024]; Acc. No. 1012189
542 N.E.2d 234 (Ind. Ct. App. 1989), 1023

Indiana *ex rel.* Goodman v. Review Bd. of Ind. Dep't of Employment & Training [44,295]; Acc. Nos. 1011518; 1011882
536 N.E.2d 1023 (Ind. 1989), 75, 589

Indiana Nat'l Bank v. Giger [45,418]; Acc. No. 1012549
No. 71DO3-8905-CP-00335 (Ind. Super. Ct., St. Joseph County, Dec. 27, 1989), 1551

Indiana *ex rel.* Vt. Dep't of Social Welfare v. Cargile
537 N.E.2d 45 (Ind. Ct. App. 1989), 561

Industrial Claims Appeals Office v. Flower Stop Mktg. Corp.
782 P.2d 13 (Colo. 1989), 1474

Ingersoll, *In re*
544 N.E.2d 409 (Ill. App. Ct. 1989), 1380

Ingram v. Hayes
866 F.2d 368 (11th Cir. 1988), 83

Inmates of Allegheny County Jail v. Wecht [21,698]; Acc. No. 1011826
873 F.2d 55 (3d Cir. 1989), 625

Inmates of Occoquan v. Barry [43,513]
717 F. Supp. 854 (D.D.C. 1989), 1381

Inspector Gen. v. Burditt [45,013]; Acc. No. 1012174
No. C-42 (HHS, Departmental App. Bd., July 28, 1989), 1025

International Union, UAW v. Johnson Controls, Inc.
866 F.2d 871 (7th Cir. 1989), 1467

International Union, UAW v. Dole [44,447]; Acc. Nos. 1011615; 1011998; 1012363
No. 89-CV-60071-AA (E.D. Mich. July 14, 1989), 201, 758, 1346

Iowa Dep't of Human Servs. v. Iowa Dist. Court for Cherokee County
446 N.W.2d 794 (Iowa 1989), 1466

Irvine, *In re* [45,111]; Acc. No. 1012259
No. ABR 88-6707 (Ill. Dep't of Employment Sec., Board of Review, Jan. 30, 1989), 1046

— J —

J., *In re* [45,334]; Acc. No. 1012452
(SSA, Office of Hearings & App., Nov. 16, 1989), 1444

J. v. Commissioner, N.H. Dep't of Educ.
565 A.2d 397 (N.H. 1989), 1469

J. v. Jones [31,293]; Acc. No. 1012421
No. 3-74-0394-H (N.D. Tex. Nov. 20, 1989), 1308

J., D., *In re*
553 So. 2d 378 (Fla. Dist. Ct. App. 1989), 1574

J., E. v. Hamilton County, Ohio
707 F. Supp. 314 (S.D. Ohio 1989), 287

Jackson v. Bowen
873 F.2d 1111 (8th Cir. 1989), 570

Jackson v. Bowker [44,448]; Acc. No. 1011618
No. 85-26 (S.D. Cir. Ct., Todd County, Sept. 12, 1988), 195

Jackson v. Chicago Hous. Auth. [45,366]; Acc. No. 1012484
1446

Jackson v. Galan
868 F.2d 165 (5th Cir. 1989), 213

Jackson v. Gonzalez-Correa [45,153]; Acc. No. 1012291
1332

Jackson v. Grant
890 F.2d 118 (9th Cir. 1989), 1465

Jackson v. Mullany [44,504]; Acc. No. 1011678
No. 80-CV-927 (N.D.N.Y. Mar. 9, 1989), 205

Jackson v. Rhode Island Dep't of Human Servs. [45,372]; Acc, No. 1012492
No. 88-2802 (R.I. Super. Ct., Providence County, Dec. 13, 1989), 1461

Jackson v. Stockdale [43,106]; Acc. No. 1012556
264 Cal. Rptr. 525 (Cal. Ct. App. 1989), 1554

Jackson v. Thornburgh
702 F. Supp. 9 (D.D.C. 1988), 87

Jacob's Mobile Homes v. Zaugg [45,093]; Acc. No. 1012250
No. 89-CV-131 (Wis. Cir. Ct., Green County, Aug. 18, 1989), 1035

Jacobson v. Wilson Care, Inc. [45,243]; Acc. No. 1012402
1326

Jaimes v. Toledo Metro. Hous. Auth. [12,140]; Acc. No. 1011946
715 F. Supp. 835, 843 (N.D. Ohio 1989), 614

James v. ITT Fin. Servs. [45,181]; Acc. No. 1012320
1314

James v. Quinlan
866 F.2d 627 (3d Cir. 1989); 886 F.2d 37 (3d Cir. 1989), 219, 1373

James v. Wilkinson [44,782]; Acc. No. 1011969
621

Jankovich v. Bowen
868 F.2d 867 (6th Cir. 1989), 283

Jean v. Nelson
863 F.2d 759 (11th Cir. 1988), 81

Jefferson v. Big Horn County
766 P.2d 244 (Mont. 1988), 86

Jeffords v. Department of Human Servs. [43,951]; Acc. No. 1012540
No. CV-88-1000 (Me. Super. Ct., Cumberland County, Dec. 28, 1989), 1569

Jefrey v. INS
710 F. Supp. 486 (S.D.N.Y. 1989), 706

Jelinek v. Bowen
870 F.2d 457 (8th Cir. 1989), 570

Jenkins v. Bowen [43,698]; Acc. No. 1012473
No. 3:86-0995 (M.D. Tenn. Dec. 12, 1989), 1456

Jennings v. Dunning
440 N.W.2d 671 (Neb. 1989), 711

Jensen v. Mary Lanning Memorial Hosp.
443 N.W.2d 891 (Neb. 1989), 996

Jewell v. Maynard
383 S.E.2d 536 (W. Va. 1989), 1373

J.F.K. Tenants' Council v. J.F.K. I, Ltd. [45,408]; Acc. No. 1012545
1559

Jiggetts v. Grinker
See Jiggetts v. Perales

Jiggetts v. Perales [43,124]; Acc. Nos. 1011979; 1012585
543 N.Y.S.2d 414, 148 A.D.2d 1 (N.Y. App. Div. 1989), 765, 1568

Johnson, *In re* [44,351]; Acc. No. 1011542
No. LC-87-02457 (Mo. Labor & Indus. Relations Comm'n Feb. 16, 1989), 77

Johnson, *In re* [44,918]; Acc. No. 1012065
(SSA, Office of Hearings & App., Dec. 19, 1988), 757

Johnson v. Babcock [44,712]; Acc. No. 1012025
763

Johnson v. Bowen
866 F.2d 274 (8th Cir. 1989), 88

Johnson v. Bradley [45,188]; Acc. No. 1012435
No. 87-369 CIV-T-10A (M.D. Fla. June 1, 1989), 1338

Johnson v. Carpenter Technology Corp.
723 F. Supp. 180 (D. Conn. 1989), 1468

Johnson v. Employment Sec. Comm'n of N.C. [44,768]; Acc. No. 1011963
No. 88 CVS 2728 (N.C. Super. Ct., Forsyth County, Mar. 20, 1989), 633

Johnson v. HUD [44,243]; Acc. No. 1011532
724 F. Supp. 1257 (E.D. Mo. 1989), 64, 1470

Johnson v. Hunter
447 N.W.2d 871 (Minn. 1989), 1466

Johnson v. Louisiana Office of Employment Sec.
536 So. 2d 779 (La. Ct. App. 1988), 89

Johnson v. Rocky Top Motors [44,368]; Acc. No. 1011558
59

Johnson v. Statewide Collections, Inc.
778 P.2d 93 (Wyo. 1989), 1374

Johnson v. Sullivan [35,037]; Acc. No. 1012144
908

Johnson v. Sullivan [44,721]; Acc. No. 1011904
No. 88-C-1109-S (W.D. Wis. May 24, 1989), 632

Johnson v. United States R.R. Retirement Bd. [45,233]; Acc. No. 1012375
1341

Johnson v. Utah Dep't of Employment Sec.
782 P.2d 965 (Utah Ct. App. 1989), 1475

Johnson v. Virginia Employment Comm'n
382 S.E.2d 476 (Va. Ct. App. 1989), 1475

Johnstun v. Washington Dep't of Social & Health Servs.
766 P.2d 1104 (Wash. Ct. App. 1988), 82

Jones v. Bennett [44,324]; Acc. No. 1011544
58

Jones v. Cavazos [45,354]; Acc. No. 1012461
889 F.2d 1043 (11th Cir. 1989), 1433

Jones v. Crawford
552 So. 2d 926 (Fla. Dist. Ct. App. 1989), 1467

Jones v. Credithrift of Am. [45,081]; Acc. No. 1012324
No. 89-441-CIV-ORL-19 (M.D. Fla. Sept. 26, 1989), 1310

Jones v. Deutsch
715 F. Supp. 1237 (S.D.N.Y. 1989), 1374

Jones v. Ehlert
704 F. Supp. 885 (E.D. Wis. 1989), 219

Jones v. Goodson
772 S.W.2d 609 (Ark. 1989), 997

Jones v. Hamilton County Comm'rs [37,337]; Acc. No. 1011571
No. C-1-82-629 (S.D. Ohio Dec. 12, 1988), 57

Jones v. Manns (*In re* Manns) [44,683]; Acc. Nos. 1011850; 1012075
No. 86-10188HAL (Bankr. D. Mass. July 17, 1989), 587, 724

Jones v. Marion Small Claims Court [44,428]; Acc. No. 1011600
No. IP 88-312-C (S.D. Ind. Dec. 6, 1988), 176

Jones v. Thompson [44,967]; Acc. No. 1012113
914

Jones v. Yeutter [44,523]; Acc. No. 1011695
313

Jordan v. Middleton
762 S.W.2d 339 (Tex. Ct. App. 1988), 83

Joyce v. Town of Lyman [40,298]; Acc. No. 1012134
911

Jungkurth v. Eastern Fin. Servs. [44,624]; Acc. No. 1011802
No. 87-5888 (E.D. Pa. Dec. 6, 1988), 301

Juvenile Dep't of Marion County v. Randall
773 P.2d 1348 (Or. Ct. App. 1989), 711

— K —

K., *In re* [44,522]; Acc. No. 1011692
343

Kalispel Tribe of Indians v. Brown [45,017]; Acc. No. 1012182
No. C-88-126-JLQ (E.D. Wash. Aug. 10, 1989), 1037

Kandlbinder v. Reagen
713 F. Supp. 937 (W.D. Mo. 1989), 986

Karalfa v. Sullivan [44,732]; Acc. No. 1011915
CIV-87-1016E (W.D.N.Y. Mar. 22, 1989), 630

Kaschak v. Raritan Valley Collection Agency [44,762]; Acc. No. 1011958
No. 88-3763 (D.N.J. May 23, 1989), 591

Keay v. Pennsylvania Unemployment Compensation Bd. of Review
551 A.2d 391 (Pa. Commw. Ct. 1988), 89

Keith v. Pennsylvania Dep't of Pub. Welfare
551 A.2d 333 (Pa. Commw. Ct. 1988), 84

Kelly v. Bowen
862 F.2d 1333 (8th Cir. 1988), 81

Kelly v. Lopeman [41,535]; Acc. No. 1011952
No. C-3-85-930 (S.D. Ohio June 20, 1989), 588

Kent v. Department of Health & Rehabilitative Servs. [45,151]; Acc. No. 1012288
1352

Kentucky Dep't of Corrections v. Thompson
109 S. Ct. 1904 (1989), 288

Kenyon v. Barile [45,245]; Acc. No. 1012383
1351

Kenyon v. Regan [45,482]; Acc. No. 1012604
1563

Kerkam v. McKenzie
862 F.2d 884 (D.C. Cir. 1988), 84

Key v. Sullivan [44,964]; Acc. No. 1012109
No. 85-C-[illegible]9 (E.D. Wis. Aug. 16, 1989), 910

Kier v. Sullivan [45,112]; Acc. Nos. 1012260; 1012355
888 F.2d 244 (2d Cir. 1989), 1038, 1341

King v. North Carolina Dep't of Human Resources [43,842]; Acc. No. 1011567
376 S.E.2d 245 (N.C. Ct. App. 1989), 97

Kinlaw v. California [42,872]; Acc. No. 1012011
741

Kirby v. Sprouls [44,387]; Acc. Nos. 1011578; 1012218
722 F. Supp. 516 (C.D. Ill. 1989), 58, 1012

Kitik v. Sullivan [43,942]; Acc. No. 1012317
1323

Klawitter v. Crawford
541 N.E.2d 1159 (Ill. App. Ct. 1989), 1375

Kline v. Utah Dep't of Health
776 P.2d 57 (Utah App. Ct. 1989), 990

Knight v. District of Columbia
877 F.2d 1025 (D.C. Cir. 1989), 989

Knop v. Johnson
712 F. Supp. 571 (W.D. Mich. 1989), 706

Knox v. Administrator, Ohio Bureau of Employment Servs. [44,542]; Acc. No. 1011707
No. 112518 (Ohio C.P. Ct., Cuyahoga County, Nov. 17, 1988), 337

Knox v. Hochman [44,541]; Acc. No. 1011708
No. C87-3248 (N.D. Ohio Sept. 21, 1988), 337

Kocher v. Wisconsin Dep't of Health & Social Servs.
448 N.W.2d 8 (Wis. Ct. App. 1989), 1470

Kohl v. Woodhaven Learning Center [43,272]
865 F.2d 930 (8th Cir. 1989), 84

Koster v. Perales [38,504]; Acc. No. 1012022
No. CV-82-2892 (E.D.N.Y. July 11, 1989), 724

Kozlowski v. Coughlin
871 F.2d 241 (2d Cir. 1989); 711 F. Supp. 83 (S.D.N.Y. 1988), 568, 713

Kralj v. Florida Unemployment Appeals Comm'n
537 So. 2d 201 (Fla. Dist. Ct. App. 1989), 221

Krepps v. Secretary of HUD [44,880]; Acc. No. 1012010
No. 89-95-Civ-T-17(B) (M.D. Fla. June 30, 1989), 744

Kronquist v. Goodrich [45,344]; Acc. No. 1012520
1458

Kross v. Tippecanoe County School Corp.
864 F.2d 1309 (7th Cir. 1988), 84

Krozser v. City of New Haven
562 A.2d 1080 (Conn. 1989), 986

Kruckeberg v. Dubois [44,296]; Acc. No. 1011520
No. IP 85-889-C (S.D. Ind. Apr. 6, 1987), 71

Kruger v. Sullivan [45,076]; Acc. No. 1012229
No. C 89-4052 (N.D. Iowa Sept. 18, 1989), 1040

Kuppersmith v. Perales [44,986]; Acc. No. 1012146
No. 40242/86 (N.Y. Sup. Ct., New York County, Apr. 3, 1989), 900

Kut-Kwick Corp. v. Johnson
376 S.E.2d 399 (Ga. Ct. App. 1988), 216

— L —

L., A.A., *In re*
448 N.W.2d 239 (Wis. Ct. App. 1989), 1467

L., R.T., *In re*
780 P.2d 508 (Colo. 1989), 1466

L., T., *In re*
445 N.W.2d 729 (Wis. Ct. App. 1989), 1380

La Raza Unida of S. Alameda County v. Skinner [5854]; Acc. No. 1011873
No. C-71 1166 RFP (N.D. Cal. May 19, 1989), 611

Labbie v. Robinson
544 So. 2d 734 (La. Ct. App. 1989), 710

Lac Courte Oreilles Band of Indians v. Wisconsin
707 F. Supp. 1034 (W.D. Wis. 1989), 567

Lake v. Labor & Indus. Relations Comm'n
781 S.W.2d 207 (Mo. Ct. App. 1989), 1575

Lamarre v. Cipolla [44,745]; Acc. No. 1011933
588

Lamkin v. Bowen [45,128]; Acc. No. 1012272
721 F. Supp. 263 (D. Colo. 1989), 1040

Langley v. Coughlin
709 F. Supp. 482 (S.D.N.Y. 1989); 888 F.2d 252 (2d Cir. 1989), 569, 1472

Langlois v. Langlois
441 N.W.2d 286 (Wis. Ct. App. 1989), 709

Langone v. Coughlin
712 F. Supp. 1061 (N.D.N.Y. 1989), 993

Lankenau Hosp. v. Paul
See Paul v. Lankenau Hosp.

Lanzarotta v. Trend Colleges [44,564]; Acc. No. 1011732
311

Lapp v. Zieky [45,363]; Acc. No. 1012481
(Conn. Super. Ct., Hartford/New Britain Jud. Dist., Oct. 6, 1989), 1449

Larch, *In re*
872 F.2d 66 (4th Cir. 1989), 567

Lascari v. Board of Educ.
560 A.2d 1180 (N.J. 1989), 990

Laurence v. Chevron, U.S.A., Inc.
855 F.2d 280 (5th Cir. 1989), 1376

Lawrence v. Kentucky Unemployment Ins. Comm'n [45,059]; Acc. No. 1012206
1046

Leach v. Hull Mun. Light Plant [45,089]; Acc. Nos. 1012247; 1012333
No. D.P.U. 88-84-1 (Mass. Dep't of Pub. Util. Oct. 17, 1989), 1037, 1339

Leake v. Long Island Jewish Medical Center
869 F.2d 130 (2d Cir. 1989), 286

Leckband v. Naylor
715 F. Supp. 1451 (D. Minn. 1989), 1381

Ledbetter v. Wilson [44,722]; Acc. No. 1011900
640

Lee v. Housing Auth. of Morgantown [44,993]; Acc. No. 1012153
No. C89-0113 BG (M) (W.D. Ky. Aug. 28, 1989), 901

Lee v. Job Serv. N.D.
440 N.W.2d 518 (N.D. 1989), 715

Lee v. Kemp [43,709]; Acc. No. 1012019
No. 88-2395-OG (D.D.C. July 27, 1989), 743

Lee v. Sullivan
723 F. Supp. 92 (E.D. Wis. 1989), 1463

Legal Aid Soc'y of Charleston v. West Virginia Comm'n on Aging [43,941]; Acc. No. 1012164
No. 87-AA-156 (W. Va. Cir. Ct., Kanawha County, Aug. 21, 1989), 1038

Lehndorff U.S.A. LTD v. 1330 19th St. Corp. [44,595]; Acc. No. 1012214
No. L&T 29582-88 (D.C. Super. Ct. May 16, 1989), 1035

Leidler v. Sullivan
885 F.2d 291 (5th Cir. 1989), 1382

Lentz v. McMahon [35,114]; Acc. No. 1012137
777 P.2d 83 (Cal. 1989), 913

Leonard v. McKenzie
869 F.2d 1558 (D.C. Cir. 1989), 564

Lepage v. Yeutter
See Dubuque v. Yeutter

Letendre v. Housing Auth. of Woonsocket [44,369]; Acc. No. 1011557
65

LeVasseur v. Bowen [44,751]; Acc. No. 1011938
No. 88-0152 B (D. Me. Feb. 28, 1989), 628

Levy v. Bowen [43,624]; Acc. Nos. 1011626; 1012294
No. 88-3271 DT (Tx) (C.D. Cal. Mar. 13, 1989); (C.D. Cal. June 20, 1989), 181, 1305

Levy v. Sullivan
See Levy v. Bowen

Lewellen v. Morley
875 F.2d 118 (7th Cir. 1989), 707

Lewelling v. Lewelling
774 S.W.2d 801 (Tex. Ct. App. 1989), 988

Lewis, *In re*
875 F.2d 53 (3d Cir. 1989), 707

Lewis v. Griffin
376 S.E.2d 364 (Ga. 1989), 219

Lewis v. Johnston [42,659]; Acc. No. 1011587
No. CA3-87-1764-R (N.D. Tex. Feb. 21, 1989), 206

Lewis v. Pennsylvania Dep't of Pub. Welfare
556 A.2d 538 (Pa. Commw. Ct. 1989), 572

Lewis v. Salois [45,054]; Acc. No. 1012208
No. CV-89-096-GF (D. Mont. Sept. 5, 1989), 1037

Lewis v. Sauvey
708 F. Supp. 167 (E.D. Mich. 1989), 568

Lewis v. Savage [45,488]; Acc. No. 1012603
1563

Lewisburg Elderly Assocs. v. Donner [44,623]; Acc. No. 1011801
No. 125-86 (Union County, Pa., C.P. Ct. Aug. 18, 1988), 323

Lezberg v. Rogers [44,922]; Acc. No. 1012070
539 N.E.2d 89 (Mass. App. Ct. 1989), 749

Lichtman v. Grossbard
533 N.E.2d 1048 (N.Y. 1988), 217

Lickness v. Kizer [45,336]; Acc. No. 1012453
No. 67292 (Cal. Super. Ct., San Luis Obispo County, Dec. 7, 1989), 1443

Liedel v. Juvenile Court of Madison County, Ala.
891 F.2d 1542 (11th Cir. 1990), 1571

Likens v. Inland Real Estate Corp.
539 N.E.2d 182 (Ill. App. Ct. 1989), 711

Lile v. University of Iowa Hosp. & Clinics [40,577]; Acc. No. 1012265
886 F.2d 157 (8th Cir. 1989), 1018

Limehouse v. Chicago Hous. Auth. [44,797]; Acc. No. 1011981
No. 89 C 3599 (N.D. Ill. June 28, 1989), 745

Limerick Ecology Action v. Nuclear Regulatory Comm'n [44,546]; Acc. No. 1011711
869 F.2d 719 (3d Cir. 1989), 330

Lindley v. Sullivan
889 F.2d 124 (7th Cir. 1989), 1473

Lindon v. Lindon [45,478]; Acc. No. 1012606
1547

Lioe-at-Jam Lee v. Ewing [44,596]; Acc. No. 1011763
No. 72600 (Okla. Sup. Ct. Mar. 20, 1989), 308

Liscio v. Warren
718 F. Supp. 1074 (D. Conn. 1989), 1380

Little Rock School Dist. v. Pulaski County Special School Dist.
716 F. Supp. 1162 (E.D. Ark. 1989), 1374

Littlewolf v. Lujan
877 F.2d 1058 (D.C. Cir. 1989), 992

Litzinger v. Indiana Dep't of Pub. Welfare [44,470]; Acc. No. 1011636
No. 21C01-8809-MI-322 (Ind. Cir. Ct., Fayette County, Mar. 17, 1989), 180

Locke v. Longacre
772 P.2d 685 (Colo. Ct. App. 1989), 572

Lockhart, *In re* [45,162]; Acc. No. 1012300
No. 89-06662 (Cal. Unemployment Ins. Appeals Bd. Sept. 26, 1989), 1348

Logan v. Bowen
713 F. Supp. 348 (D. Ariz. 1989), 996

Lomas & Nettleton v. Janes [44,489]; Acc. No. 1011814
No. CE 184-0688 (Iowa Dist. Ct., Des Moines County, Jan. 3, 1989), 618

Long v. Bowen
866 F.2d 1066 (8th Cir. 1989), 220

Long v. Huppert [44,429]; Acc. No. 1011599
176

Lopez v. Davidian [44,067]; Acc. Nos. 1011795; 1012573
716 F. Supp. 443 (S.D. Cal. 1989); (S.D. Cal. Jan. 5, 1990), 324, 1560

Lopez v. Ezell
See Lopez v. Davidian

Lopez v. Sullivan
882 F.2d 1533 (10th Cir. 1989), 1372

Lorenc v. Call [45,367]; Acc. No. 1012485
No. 890286-CA (Utah Ct. App. Dec. 20, 1989), 1441

Louisiana *ex rel.* Braden v. Nash
550 So. 2d 866 (La. Ct. App. 1989), 1467

Lovato, *In re* [45,113]; Acc. No. 1012257
(S.S.A., Office of Hearings & App., Sept. 28, 1989), 1043

Love v. Amsler
441 N.W.2d 555 (Minn. Ct. App. 1989), 992

Love v. Coler [44,905]; Acc. No. 1012052
No. 88-6872 CIV-KING (S.D. Fla. Apr. 14, 1989), 735

Lovig v. Bowen [45,255]; Acc. No. 1012373
No. H-88-117 (PCD) (D. Conn. Oct. 12, 1989), 1305

Loyd v. Sullivan
882 F.2d 218 (7th Cir. 1989), 995

Loyola Fed. Sav. & Loan v. Edler [45,203]; Acc. No. 1012334
No. 2-4-89CV1008 (Md. Dist. Ct., Worcester County, Oct. 16, 1989), 1313

Loyola Fed. Sav. & Loan v. Smith [45,212]; Acc. No. 1012335
1313

Lucas v. Babcock
See Lucas v. King

Lucas v. King [42,577]; Acc. Nos. 1011831; 1012331
No. 89-1329 (6th Cir. Nov. 3, 1989), 636, 1349

Lucas County Dep't of Human Servs. v. Wayne
437 N.W.2d 291 (Mich. Ct. App. 1989), 284

Ludden v. Bowen
888 F.2d 1246 (8th Cir. 1989), 1473

Luke v. Bowen [43,701]; Acc. Nos. 1011689; 1012139
868 F.2d 974 (8th Cir. 1989), 335, 908

Lukosevicz v. Director, OWCP
888 F.2d 1001 (3d Cir. 1989), 1469

Lumpkin v. Burns
702 F. Supp. 242 (D. Nev. 1988), 87

Lutgen, *In re* [43,553]
532 N.E.2d 976 (Ill. App. Ct. 1988), 83

Lynch v. Lyng [43,756]; Acc. No. 1011698
870 F.2d 718 (6th Cir. 1989), 302

Lynch Community Homes, Appeal of, *In re*
554 A.2d 155 (Pa. Commw. Ct. 1989), 218

Lynn v. Bowen
702 F. Supp. 768 (W.D. Mo. 1988), 88

— M —

M. v. Johnson
726 F. Supp. 690 (N.D. Ill. 1989), 1573

M. v. Magnant [45,225]; Acc. Nos. 1012346; 1012558
1336, 1561

M. v. Robstown Indep. School Dist. [44,605]; Acc. No. 1011781
No. 009-SE-987 (Tex. Educ. Agency July 27, 1988), 315

M. v. Watson [44,568]; Acc. No. 1011735
318

M., *In re* [44,631]; Acc. No. 1011807
No. 1309206P (N.Y. Dep't of Social Servs. Feb. 16, 1989), 342

M., *In re* [45,164]; Acc. No. 1012302
No. 76N-50395 (Ind. Dep't of Pub. Welfare July 28, 1989), 1319

M., *In re* [45,252]; Acc. No. 1012386
(SSA, Office of Hearings & Appeals, Feb. 27, 1989), 1344

M., Adoption of, *In re*
See Q. v. L.

MacLaird v. Werger
723 F. Supp. 617 (D. Wyo. 1989), 1463

Macomb County Intermediate School Dist. v. Joshua S.
715 F. Supp. 824 (E.D. Mich. 1989), 1377

Madison v. Board of Review [44,796]; Acc. No. 1011980
No. 13-065 (Ohio Ct. App. June 26, 1989), 759

Magallanes v. Bowen
881 F.2d 747 (9th Cir. 1989), 995

Magness v. Magness
558 A.2d 807 (Md. Ct. Spec. App. 1989), 708

Maine AFDC Advisory Council v. Lyng [44,738]; Acc. No. 1011926
No. 86-0261-B (D. Me. Mar. 20, 1989), 599

Maine Ass'n of Indep. Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [45,228]; Acc. No. 1012405
1350

Maine Ass'n of Interdependent Neighborhoods v. Commissioner, Me. Dep't of Human Servs. [43,647]; Acc. Nos. 1011658; 1011992
876 F.2d 1051 (1st Cir. 1989), 174, 726

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [44,493]; Acc. No. 1011662
205

Maine Ass'n of Interdependent Neighborhoods v. Commissioner of Me. Dep't of Human Servs. [45,163]; Acc. No. 1012301
No. 88-0240-B (D. Me. Aug. 22, 1989), 1307

Maine Dep't of Human Servs. v. Tarvers [43,952]; Acc. No. 1011944
594

Mallard v. United States Dist. Court for the S. Dist. of Iowa [44,625]; Acc. No. 1011798
109 S. Ct. 1814 (1989), 300

Mammenga v. Minnesota Dep't of Human Servs. [44,532]; Acc. No. 1012136
442 N.W.2d 786 (Minn. 1989), 913

Mann v. Daum [44,910]; Acc. No. 1012049
(Ogden, N.Y., Just. Ct. Dec. 27, 1988), 750

Manning v. Bowen
717 F. Supp. 429 (W.D. Va. 1989), 1383

Mansell v. Mansell
109 S. Ct. 2023 (1989), 561

Mansfield v. Ibarra [45,274]; Acc. No. 1012420
1325

Manwaring v. Century Toyota [44,326]; Acc. No. 1012045
No. N-88-462 (AHN) (D. Conn. Mar. 28, 1989), 728

Mara v. Sullivan
721 F. Supp. 520 (S.D.N.Y. 1989), 1463

Marable v. Lee County [45,224]; Acc. No. 1012347
No. 89 CVS 00118 (N.C. Super. Ct., Lee County, Aug. 21, 1989), 1356

Marcus v. Sullivan [38,704]; Acc. Nos. 1011812; 1012332
No. 85 C 453 (N.D. Ill. June 12, 1989); (N.D. Ill. Sept. 26, 1989), 627, 1342

Marin v. Commissioner of Income Maintenance [44,485]; Acc. No. 1011649
207

Marino v. Smart [44,566]; Acc. No. 1011731
No. 7-88-CVG-510 (New Philadelphia, Ohio, Mun. Ct. Dec. 13, 1988), 322

Mark, *In re* [45,003]; Acc. No. 1012161
(S.S.A., Office of Hearings & App., June 2, 1989), 1044

Marsh v. Barry
705 F. Supp. 12 (D.D.C. 1988), 219

Marshall v. Melendez [45,229]; Acc. No. 1012388
No. 792 of 1989 (Mass. Dist. Ct., Suffolk County, Chelsea Div., Oct. 10, 1989), 1337

Marshall v. Sullivan [44,219]; Acc. No. 1011787
No. JFM-87-1242 (D. Md. Apr. 25, 1989), 333

Martel, *In re* [45,346]; Acc. No. 1012454
No. 87-080 (Vt. Sup. Ct. Dec. 4, 1989), 1459

Martin v. Bales [44,572]; Acc. No. 1011739
No. 1283-86-4 (Va. Ct. App. Sept. 6. 1988), 310

Martin v. East Side Hous. Corp. [45,014]; Acc. No. 1012173
No. 89-0300B (D.R.I. Aug. 18, 1989), 1029

Martin v. Sullivan [44,947]; Acc. No. 1012097
No. 88-C-1134 (E.D. Wis. Aug. 9, 1989), 910

Martindale v. Sullivan
890 F.2d 410 (11th Cir. 1989), 1463

Martinez v. Department of Indus., Labor & Human Relations [44,972]; Acc. No. 1012129
906

Martinez v. Jacobson [45,355]; Acc. No. 1012462
1452

Martinez v. School Bd. of Hillsborough County, Fla.
711 F. Supp. 1066 (M.D. Fla. 1989), 710

Massachusetts Title IV-A State Plan Amendment, *In re* [44,749]; Acc. No. 1011996
(HHS, Family Support Administration, June 2, 1989), 767

Massachusetts v. Morash
109 S. Ct. 1668 (1989), 215

Mateer v. Bowen
702 F Supp. 220 (S.D. Iowa 1988), 88

Matheny v. Pratt [44,728]; Acc. No. 1011911
638

Mathieu v. Commissioner of Human Servs.
562 A.2d 686 (Me. 1989), 987

Mathis v. Boeing Military Airplane Co.
719 F. Supp. 991 (D. Kan. 1989), 1376

Matthews v. Ibarra
703 F. Supp. 68 (D. Colo. 1988), 217

Maturo v. National Graphics, Inc.
722 F. Supp. 916 (D. Conn. 1989), 1468

Maxey v. Fulton
890 F.2d 279 (10th Cir. 1989), 1464

Maxfield v. Maxfield
439 N.W.2d 411 (Minn. Ct. App. 1989), 562

Mayfield v. Mayfield
780 S.W.2d 139 (Mo. Ct. App. 1989), 1467

Mayfield v. Vanguard Sav. & Loan Ass'n [44,586]; Acc. No. 1011749
No. 88-410 (E.D. Pa. Apr. 6, 1989), 305

Mayor's Office of Employment & Training, *In re* [44,354]; Acc. No. 1011543
59

Mazon v. Flagstaff Health Management [44,758]; Acc. No. 1011947
603

McAda, *In re*
780 S.W.2d 307 (Tex. Ct. App. 1989), 1471

McAdams v. Secretary of HHS
726 F. Supp. 579 (D.N.J. 1989), 1575

McAllister v. Sullivan
880 F.2d 1086 (9th Cir. 1989); 888 F.2d 599 (9th Cir. 1989), 995, 1473

McBride v. Blue Velvet Transp. [45,286]; Acc. No. 1012424
1317

McClendon v. Metropolitan Mortgage [43,703]; Acc. No. 1012477
No. 86-12890 CA 24 (Fla. Cir. Ct., Dade County, Dec. 18, 1989), 1431

McCloud v. McCloud
544 So. 2d 764 (La. Ct. App. 1989), 708

McConnell v. Beverly Enterprises-Connecticut [44,047]; Acc. No. 1012243
553 A.2d 596 (Conn. 1989), 216, 1022

McDonald v. Secretary of HHS [41,450]
884 F.2d 1468 (1st Cir. 1989), 1372

McDonald's Sherwood Forest v. Department of Employment Sec.
540 So. 2d 412 (La. Ct. App. 1989), 572

McDowell v. Bowen [44,297]; Acc. No. 1011521
NA 87-9-C (S.D. Ind. Feb. 25, 1988), 73

McDowell v. South Carolina Dep't of Social Servs. [43,770]
386 S.E.2d 280 (S.C. Ct. App. 1989), 1570

McFadden v. Mississippi
542 So. 2d 871 (Miss. 1989), 713

McGuire v. Sullivan
723 F. Supp. 1506 (N.D. Ga. 1989), 1463

McIntosh v. Commissioner, Me. Dep't of Human Servs. [43,953]; Acc. No. 1011680
No. CV-88-279 (Me. Super. Ct., Kennebec County, Jan. 18, 1989), 207

McKenney v. Sullivan [45,227]; Acc. No. 1012404
1350

McKinzie v. Board of Supervisors of Placer County [43,576]; Acc. No. 1011724
No. 82223 (Cal. Super. Ct., Placer County, Apr. 25, 1989), 316

McLaughlin v. Canino-Siegrist [44,867]; Acc. No. 1012170
No. 84031 (Mass. Super. Ct., Suffolk County, Aug. 10, 1989), 1051

McLaughlin v. Elsberry, Inc.
868 F.2d 1525 (11th Cir. 1988), 287

McMullen v. Labor & Indus. Rev. Comm'n
434 N.W.2d 830 (Wis. Ct. App. 1988), 85

McMullen v. Perales [44,356]; Acc. No. 1011547
77

McNamara v. Bevis [44,471]; Acc. No. 1011639
No. E-4538 (Mass. Dist. Ct., Norfolk County, Dec. 8, 1988), 187

McNeill v. HHS
713 F. Supp. 59 (W.D.N.Y. 1989), 985

McNeill v. New York City Hous. Auth.
719 F. Supp. 233 (S.D.N.Y. 1989), 1378

McQuiddy v. HHS
888 F.2d 1047 (5th Cir. 1989), 1473

McWilliams v. Hayes
379 S.E.2d 529 (Ga. Ct. App. 1989), 711

Meadow Park Garden Assocs. v. Canley
773 P.2d 875 (Wash. Ct. App. 1989), 711

Means v. Jowa Sec. Servs.
440 N.W.2d 23 (Mich. Ct. App. 1989), 709

Meek v. Martinez [42,981]
724 F. Supp. 888 (S.D. Fla. 1989), 1473

Mehta v. Surles
720 F. Supp. 324 (S.D.N.Y. 1989), 1469

Mellon Bank v. Dougherty [43,841]; Acc. Nos. 1012141; 1012437
No. 88A-DE-3-A (Del. Super. Ct., Kent County, Aug. 24, 1989); No. 383, 1989 (Del. Sup. Ct. Nov. 30, 1989), 895, 1312

Melvin v. Kim's Restaurant, Inc.
776 P.2d 1286 (Or. 1989), 989

Memphis Hous. Auth. v. Henry [45,273]; Acc. No. 1012414
No. 17 (Tenn. Ct. App. May 10, 1989), 1333

Mendoza v. Bowen
701 F. Supp. 1468 (N.D. Cal. 1988), 88

Menendez, *In re* [45,242]; Acc. No. 1012381
No. A26 259 979 (U.S. Immigration Ct. Sept. 20, 1989), 1335

Mercer v. Yeutter [44,890]; Acc. Nos. 1012029; 1012118
736, 897

Merchants Bank v. Lambert
559 A.2d 665 (Vt. 1989), 711

Metropolitan Gov't v. Tennessee Dep't of Educ.
771 S.W.2d 427 (Tenn. Ct. App. 1989), 990

Meulen v. Review Bd. of Ind. Employment Sec. Div. [45,399]; Acc. No. 1012536
No. (86-A-7923) 86-R-1509 (Ind. Dep't of Employment & Training Servs. Review Bd. Nov. 4, 1988), 1457

Meusberger v. Palmer [44,898]; Acc. Nos. 1012037; 1012284
No. C 89-4033 (N.D. Iowa May 22, 1989), 740, 1019

Meyer v. Colorado Found. for Medical Care [44,659]; Acc. No. 1011834
No. 86-2722 (10th Cir. Apr. 28, 1989), 582

Michel v. American Capital Enters. [45,261]; Acc. No. 1012370
No. 87-4297 (9th Cir. Aug. 28, 1989), 1307

Milano v. Jones [44,895]; Acc. No. 1012058
No. M 89 06 CVG 02 0458 (Franklin County, Ohio, Mun. Ct. July 10, 1989), 727

Miles v. Metropolitan Dade County [45,016]; Acc. No. 1012178
No. 87-1930-CIV-Spellman (S.D. Fla. June 29, 1989), 1027

Millcreek Township Zoning Ordinance No. 87-24, *In re* [45,189]; Acc. No. 1012431
No. 3313 - A - 1988 (Pa. C.P. Ct., Erie County, July 25, 1989), 1334

Miller v. Bowen [45,358]; Acc. No. 1012468
No. 87-1393T (W.D.N.Y. May 23, 1988), 1454

Miller v. Cowart
546 So. 2d 768 (Fla. Dist. Ct. App. 1989), 1375

Miller v. Ritchie [44,621]; Acc. Nos. 1011796; 1012293
543 N.E.2d 1265 (Ohio 1989), 326, 1337

Milliner v. Pierce [44,425]; Acc. No. 1011591
183

Milliron v. Bowen
708 F. Supp. 677 (W.D. Pa. 1989), 559

Mills v. Howe [44,598]; Acc. No. 1011770
304

Mills v. Parker
549 So. 2d 97 (Ala. Civ. App. 1989), 1374

Milord v. Caulkins Indiantown Citrus Co. [44,914]; Acc. No. 1012061
735

Minatsis v. Brown
713 F. Supp. 1056 (S.D. Ohio 1989), 991

Minnesota Dep't. of Human Rights v. Mower County Social Servs.
434 N.W.2d 494 (Minn. Ct. App. 1989), 84

Minnesota *ex rel.* Miller v. Miller
446 N.W.2d 199 (Minn. Ct. App. 1989), 1385

Minor v. Adult & Family Servs. Div. [45,039]; Acc. No. 1012196
1049

Mississippi Band of Choctaw Indians v. Holyfield
109 S. Ct. 1597 (1989), 218

Mississippi Employment Security Comm'n v. Pulphus
538 So. 2d 770 (Miss. 1989), 221

Mississippi Protection & Advocacy Sys. v. Cotten [45,186]; Acc. No. 1012432
No. J87-0503(L) (S.D. Miss. Aug. 4, 1989), 1338

Missouri v. Jenkins
109 S. Ct. 2463 (1989), 558

Missouri v. Thurwalker
766 S.W.2d 483 (Mo. Ct. App. 1989), 285

Mitchell v. Adams County [45,161]; Acc. No. 1012297
No. 88 CV 13 (Wis. Cir. Ct., Adams County, Apr. 12, 1989), 1357

Mitchell v. Meachum
770 P.2d 887 (Okla. 1988), 288

Mitchell v. Perales [44,363]; Acc. No. 1011553
No. 88-CV-382 (N.D.N.Y. Dec. 16, 1988), 72

Molenda v. Thomsen
772 P.2d 1303 (N.M. 1989), 715

Monaco v. Pennsylvania Unemployment Compensation Bd. of Review
565 A.2d 127 (Pa. 1989), 1474

Monaghan v. Crawford
763 S.W.2d 955 (Tex. Ct. App. 1989), 83

Monmouth County Correctional Inst. Inmates v. Lanzaro
717 F. Supp. 268 (D.N.J. 1989), 1381

Monroe v. City of Woodville, Miss. [41,631]
881 F.2d 1327 (5th Cir. 1989), 988

Monte v. New Mexico Human Servs. Dep't [45,409]; Acc. No. 1012546
1568

Montell v. Washington Dep't of Social & Health Servs.
775 P.2d 976 (Wash. Ct. App. 1989), 998

Montemayor v. Moomaw [45,114]; Acc. No. 1012255
1033

Montgomery v. HUD [40,514]; Acc. No. 1012330
No. C85-2104 (N.D. Iowa July 3, 1989), 1329

Montgomery Ward Credit Corp. v. Brewer [44,517]; Acc. No. 1011686
No. DJ 88-20424 (Minn. Dist. Ct., Hennepin County, Mar. 22, 1989), 178

Montoya v. New Mexico Human Servs. Dep't [44,781]; Acc. No. 1011968
771 P.2d 196, 108 N.M. 263 (Ct. App. 1989), 601

Moon v. Bowen [44,612]; Acc. No. 1011790
No. 87-1553 (M.D. Pa. June 30, 1988), 334

Moore v. District of Columbia [45,053]
886 F.2d 335 (D.C. Cir. 1989), 1463

Moore v. Grammer
442 N.W.2d 861 (Neb. 1989), 993

Moore v. Mississippi Valley State Univ.
871 F.2d 545 (5th Cir. 1989), 563

Moore v. Porter [45,239]; Acc. No. 1012379
1306

Moore v. Republic Moving & Storage [44,427]; Acc. No. 1011595
191

Moore v. Sharp [44,323]; Acc. No. 1011545
532 N.Y.S.2d 811 (N.Y. App. Div. 1988), 59

Morales, *In re* [44,965]; Acc. No. 1012108
No. 89-156-5-25 (Idaho Dep't of Health & Welfare July 25, 1989), 900

Morales v. Pan Am. Life Ins. Co.
718 F. Supp. 1297 (E.D. La. 1989), 1377

Morales-Feliciano v. Parole Bd. of Commonwealth of Puerto Rico
887 F.2d 1 (1st Cir. 1989), 1471

Morf v. Bredemann [43,634]; Acc. No. 1012285
No. 88CH 6574 (Ill. Cir. Ct., Cook County, Aug. 23, 1989), 1035

Morgan v. Foretich
564 A.2d 1 (D.C. 1989), 1465

Morillo v. City of New York [44,727]; Acc. No. 1011910
618

Morrison v. DOL
713 F. Supp. 664 (S.D.N.Y. 1989), 992

Moseanko v. Yeutter [42,954]; Acc. No. 1012299
1340

Moser v. Commerce Serv. Corp. [44,699]; Acc. No. 1011876
No. 88-8429 (E.D. Pa. May 26, 1989), 592

Mosley v. Barry [44,151]; Acc. No. 1011959
No. C-1-87-0968 (S.D. Ohio Mar. 20, 1989), 638

Mosteller v. Bowen
702 F. Supp. 1534 (D. Kan. 1988), 220

Motley v. Williams (*In re* Motley) [45,231]; Acc. No. 1012389
No. 88-001788 (Bankr. W.D. Va. Oct. 20, 1989), 1306

Mowbray v. Kozlowski [45,170]; Acc. No. 1012305
724 F. Supp. 404 (W.D. Va. 1989); 725 F. Supp. 888 (W.D. Va. 1989), 1324, 1573

Muckleshoot Tribe v. Puget Sound Power & Light
875 F.2d 695 (9th Cir. 1989), 706

Muhammad v. McMickens
708 F. Supp. 607 (S.D.N.Y. 1989), 569

Mulgrew v. Pennsylvania Dep't of Pub. Welfare
557 A.2d 1160 (Pa. Commw. Ct. 1989), 560

Mullen v. Al Castrucci Ford, Inc.
537 N.E.2d 1307 (Ohio C.P. Ct. 1986)., 560

Multnomah Legal Servs. Workers Union v. Multnomah County Legal Aid Serv. [44,665]; Acc. Nos. 1011842; 1012258
723 F. Supp. 1398 (D. Or. 1989), 583, 1008

Mundt, *In re* [45,288]; Acc. No. 1012440
(SSA, Office of Hearings & App., Nov. 14, 1989), 1345

Murphy v. Senior Servs. Div.
767 P.2d 104 (Or. Ct. App. 1989), 86

Murray v. Giarratano
109 S. Ct. 2765 (1989), 567

Myers v. Bowen
704 F. Supp. 45 (S.D.N.Y. 1989), 220

Myers v. Director, Mich. Dep't of Social Servs. [45,172]; Acc. No. 1012312
No. 108264 (Mich. Ct. App. July 27, 1989), 1353

Myers v. Sullivan
710 F. Supp. 1333 (M.D. Fla. 1989), 706

Myrick v. Commissioner, Dep't of Human Servs. [44,719]; Acc. No. 1011902
640

Myrick v. Secretary of HHS [44,518]; Acc. No. 1011681
No. 88-3351 (6th Cir. Mar. 21, 1989), 171

— N —

N. v. Kiley [45,368]; Acc. No. 1012489
1452

N., J., *In re* [44,748]; Acc. No. 1011995
No. 0189 A 272 (Wash. State Dep't of Social & Health Servs. Office of Appeals Apr. 28, 1989), 767

NAACP v. McLaughlin [33,367]
703 F. Supp. 1014 (D.D.C. 1989), 218

NAACP, Boston Chapter v. Boston Hous. Auth. [45,446]; Acc. No. 1012577
1557

NAACP, City of Commerce Branch v. Housing Auth. of City of Commerce [44,784]; Acc. No. 1012044
746

Nabors v. Housing Auth. of Milwaukee [45,023]; Acc. No. 1012186
No. 87-C-571 (E.D. Wis. Sept. 1, 1989), 1030

Nash v. Bowen
869 F.2d 675 (2d Cir. 1989), 284

Nash v. Bowen
882 F.2d 1291 (8th Cir. 1989), 1382

Nash v. Overnite Transp. Co. [44,599]; Acc. No. 1011769
No. B87-07344-106566W (Mich. Employment Sec. Board of Review May 13, 1988), 339

National Center for Immigrants' Rights v. INS [35,810]
892 F.2d 814 (9th Cir. 1989), 1571

National Center for Youth Law v. LSC [45,500]; Acc. No. 1012600
1546

National Coalition for the Homeless v. VA [43,806]
715 F. Supp. 392 (D.D.C. 1989), 1378

National Funeral Servs., Inc. v. Rockefeller
870 F.2d 136 (4th Cir. 1989), 560

National Tenants Org. v. Kemp [43,958]; Acc. No. 1011937
No. 89-5175 (D.C. Cir. July 7, 1989), 610

National Treasury Employees Union v. Lyng
706 F. Supp. 934 (D.D.C. 1988), 285

National Treasury Employees Union v. Von Raab
109 S. Ct. 1384 (1989), 215

Neal v. United States Postal Serv. [45,124]; Acc. No. 1012275
No. 89603459MW (Wis. Dep't of Indus., Labor & Human Relations, June 30, 1989), 1046

Necaise, *In re* [44,520]; Acc. Nos. 1011685; 1011815
No. 88-CA-890 (La. Ct. App. May 10, 1989), 179, 595

Nehmer v. VA [44,691]; Acc. No. 1011866
712 F. Supp. 1404 (N.D. Cal. 1989), 635

Neighborhood Action Coalition v. Canton, Ohio
882 F.2d 1012 (6th Cir. 1989), 1377

Neighbors for a Better Approach v. NEPA
770 P.2d 1390 (Colo. Ct. App. 1989), 565

Neitzke v. Williams
109 S. Ct. 1827 (1989), 284

Nelson v. Bowen
882 F.2d 45 (2d Cir. 1989), 994

Nelson v. City of Chicago [45,182]; Acc. No. 1012318
1310

Nelson v. HUD [44,538]; Acc. No. 1011703
319

New v. S & B Used Cars [45,384]; Acc. No. 1012519
No. 5:88-1017 (S.D. W. Va. Nov. 3, 1989), 1437

New v. Unemployment Compensation Bd. of Review
558 A.2d 602 (Pa. Commw. Ct. 1989), 716

New Hampshire v. Dionne
557 A.2d 653 (N.H. 1989), 572

New Jersey v. Mickens
565 A.2d 720 (N.J. Super. Ct. 1989), 1476

Newark Coalition for Low Income Hous. v. Newark Redevelopment & Hous. Auth. [44,491]; Acc. Nos. 1011679; 1012132
No. 89-1303 (DRD) (D.N.J. Apr. 4, 1989); (D.N.J. Aug. 17, 1989), 184, 902

Newman v. 1st 1440 Inv., Inc. [45,006]; Acc. No. 1012162
1012

Newman v. Sullivan [44,877]; Acc. No. 1012008
753

Newman v. Zebley
See Sullivan v. Zebley

Nidor v. Center Township [44,298]; Acc. No. 1011522
No. S285-632 (Ind. Super. Ct., Marion County, Dec. 19, 1988), 79

Nolan v. Donohue [44,472]; Acc. No. 1011627
No. 88E O142 (Mass. Dist. Ct., Norfolk County, Nov. 18, 1988), 192

North Dakota *ex rel.* Graham v. Hatch [44,873]; Acc. No. 1012002
No. 890205 (N.D. Sup. Ct. July 19, 1989), 726

North School Congregate Hous. v. Merrithew [43,955]; Acc. Nos. 1011659; 1011840
558 A.2d 1189 (Me. 1989), 191, 622

Northwest Forest Workers v. Yeutter [42,653]; Acc. No. 1011569
No. 87-1487 (D.D.C. Feb. 28, 1989), 67

Norton v. Tennessee Dep't of Safety (*In re* Norton)
867 F.2d 313 (6th Cir. 1989), 214

Notias v. Melendez [44,362]; Acc. No. 1011552
No. 74406/87 (Kings County, N.Y., Ct. Dec. 7, 1988), 69

NPA v. WBA
380 S.E.2d 178 (Va. Ct. App. 1989), 709

Nunez v. Nunez
771 S.W.2d 7 (Tex. Ct. App. 1989), 709

— O —

O., *In re* [44,632]; Acc. No. 1011808
No. 1309904J (N.Y. Dep't of Social Servs. Feb. 23, 1989), 342

O., *In re* [44,999]; Acc. No. 1012159
(N.Y. State Dep't of Social Servs. July 24, 1989), 916

Oak Park Trust & Sav. Bank v. Village of Mount Prospect [44,373]; Acc. No. 1011560
536 N.E.2d 763, 181 Ill. App. 3d 10 (1989), 68

Ocasio v. City of Lawrence [44,869]; Acc. No. 1011997
763

Odem, *In re*
537 So. 2d 919 (Ala. 1988), 216

Office of Pub. Aid v. Superior Court
779 P.2d 809 (Alaska Ct. App. 1989), 1471

Office of Workers' Compensation Programs, DOL v. Consolidation Coal Co.
884 F.2d 926 (6th Cir. 1989), 1378

Oglesby v. Barry [45,472]; Acc. No. 1012599
No. C-3-89-125 (S.D. Ohio Nov. 30, 1989), 1553

Ohio *ex rel.* Lucas v. Steinbacher [44,879]; Acc. No. 1012009
No. 54051 (Ohio Ct. App. Sept. 29, 1988), 760

Oklahoma Tax Comm'n v. Graham
109 S. Ct. 1519 (1989), 218

Oliver v. Housing Auth. of Augusta
374 S.E.2d 832 (Ga. Ct. App. 1988), 85

Olson v. Iowa Employment Appeal Bd. [45,009]; Acc. No. 1012181
No. 74851 (Iowa Dist. Ct., Scott County, Aug. 14, 1989), 1045

1989-90 Energy Assistance Program, *In re* [45,392]; Acc. No. 1012509
(Ind. Dep't of Human Servs. Dec. 14, 1989), 1453

Oregon *ex rel.* Wardell v. Del Langdon [45,166]; Acc. No. 1012307
No. 89-1941 (Or. Cir. Ct., Klamath County, Sept. 20, 1989), 1316

Organ v. Dolan [42,883]; Acc. No. 1011920
No. 96241 (Cal. Super. Ct., Butte County, June 6, 1989), 641

Orlowsky v. Orlowsky
436 N.W.2d 419 (Mich. Ct. App. 1989), 284

Orrego v. HUD [43,231]; Acc. No. 1011699
No. 88 C 1567 (N.D. Ill. Apr. 5, 1989), 319

Ortiz, *In re* [44,714]; Acc. No. 1011894
(FmHA Hearing Panel Jan. 5, 1989), 621

Ortiz v. Eichler [35,980]; Acc. No. 1012444
No. 84-16 MMS (D. Del. June 9, 1989), 1350

Ortiz-Tejeda, *In re* [45,007]; Acc. No. 1012163
(S.S.A., Office of Hearings & App., Aug. 24, 1989), 1044

Osceola v. Florida Dep't of Revenue
705 F. Supp. 1552 (S.D. Fla. 1989), 287

Otoe County Nat'l Bank v. Easton (*In re* Easton)
883 F.2d 630 (8th Cir. 1989), 1373

Overbey v. McBride [43,483]; Acc. No. 1011928
No. C-1-88-399 (S.D. Ohio May 3, 1989), 594

Overend v. Sullivan
879 F.2d 673 (9th Cir. 1989), 995

Owens v. Nacogdoches County Hosp. Dist. [45,201]; Acc. No. 1012344
No. L-87-97-CA (E.D. Tex. Oct. 4, 1989), 1324

Owens v. Okure
109 S. Ct. 573 (1989), 82

— P —

P., *In re* [44,734]; Acc. No. 1011918
No. 879780 (N.Y. Dep't of Social Servs. June 2, 1989), 642

P., *In re* [44,998]; Acc. No. 1012160
(N.Y. State Dep't of Social Servs. Dec. 9, 1988), 898

P. v. Berkeley Unified School Dist.
724 F. Supp. 698 (N.D. Cal. 1989), 1467

P. v. Johnson [43,990]; Acc. No. 1012222
721 F. Supp. 1002 (N.D. Ill. 1989), 1034

P., D., *In re*
566 A.2d 399 (Vt. 1989), 1469

P., Jennifer, *In re*
553 A.2d 196 (Conn. App. Ct. 1989), 215

Pace v. Housing Auth. of Burkesville (*In re* Pace) [45,440]; Acc. No. 1012561
No. 1-89-00519(7) (Bankr. W.D. Ky. Dec. 20, 1989), 1548

Pacheo v. VA [44,688]; Acc. No. 1011863
No. C83-3098 (N.D. Ohio Jan. 4, 1989), 635

Padilla v. United Air Lines
716 F. Supp. 485 (D. Colo. 1989), 1376

Pagan v. Bowen
862 F.2d 340 (D.C. Cir. 1988), 87

Paige v. Sullivan
717 F. Supp. 626 (N.D. Ill. 1989), 1372

Palmigiano v. DiPrete [14,243]
710 F. Supp. 875 (D.R.I. 1989), 713

Panages v. Bowen
871 F.2d 91 (9th Cir. 1989), 570

Pappalardo v. Bowen [44,679]; Acc. No. 1011849
No. 88 CV 0894 (E.D.N.Y. Apr. 5, 1989), 630

Pappas v. Bowen
863 F.2d 227 (2d Cir. 1988), 81

Paralyzed Veterans of Am. v. Skinner [44,862]; Acc. No. 1011986
738

Parker v. Monroe County Dep't of Pub. Welfare [44,424]; Acc. No. 1011597
533 N.E.2d 177 (Ind. Ct. App. 1989), 190

Parker v. Parker [45,249]; Acc. No. 1012397
1315

Parker v. Secretary of HHS
713 F. Supp. 277 (N.D. Ind. 1989), 996

Parker v. Stein [44,889]; Acc. No. 1012030
557 A.2d 1319 (D.C. Ct. App. 1989), 749

Parks v. Romans
543 N.E.2d 277 (Ill. App. Ct. 1989), 1375

Parsons v. Administrator, Ohio Bureau of Employment Servs. [45,477]; Acc. No. 1012605
No. 89 CI 116 (Ohio Ct. C.P., Coshocton County, Jan. 24, 1990), 1566

Pascual v. Sullivan
715 F. Supp. 1268 (S.D.N.Y. 1989), 1383

Pate v. Bobo
540 So. 2d 660 (Ala. 1988), 566

Patterson v. McLean Credit Union
109 S. Ct. 2363 (1989), 562

Paul v. Lankenau Hosp. [44,616]; Acc. Nos. 1011786; 1012585
569 A.2d 346 (Pa. 1990), 312, 1552

Pearce v. Barry [44,997]; Acc. No. 1012149
904

Pearce v. Sullivan
871 F.2d 61 (7th Cir. 1989), 570

Pearl Meadows Mushroom Farm, Inc. v. Nelson
723 F. Supp. 432 (N.D. Cal. 1989), 1470

Pears v. Spang
718 F. Supp. 441 (W.D. Pa. 1989), 1377

Pearson v. Bowen
866 F.2d 809 (5th Cir. 1989), 219

Peck v. Sullivan [44,900]; Acc. No. 1012035
No. 88-173-D-1 (S.D. Iowa July 10, 1989), 754

Peelman v. Review Bd. of Ind. Employment Sec. Div. [44,299]; Acc. No. 1011519
No. 93A02-8701-EX-29 (Ind. Ct. App. Mar. 9, 1988), 76

Peffley-Warner v. Bowen
778 P.2d 1022 (Wash. 1989), 1383

Pella v. Adams
702 F. Supp. 244 (D. Nev. 1988), 87

Pennsylvania v. Union Gas Co.
109 S. Ct. 2273 (1989), 564

Pennsylvania *ex rel.* Coburn v. Coburn
558 A.2d 548 (Pa. Super. Ct. 1989), 709

Pennsylvania Dep't of Pub. Welfare v. Bean
558 A.2d 170 (Pa. Commw. Ct. 1989), 570

Pennsylvania Dep't of Pub. Welfare v. Davenport [43,294]; Acc. No. 1012581
1548

Pennsylvania Dep't of Pub. Welfare v. Johnson-Allen [42,156]; Acc. No. 1011641
871 F.2d 421 (3d Cir. 1989), 172

Peppers v. Barry [43,861]; Acc. No. 1011970
873 F.2d 967 (6th Cir. 1989), 572, 726

Perez v. Bank of the W. [44,263]; Acc. No. 1011861
(Fed. Deposit Ins. Corp., San Francisco, Cal., May 5, 1989), 596

Perez v. Secretary of HHS
881 F.2d 330 (6th Cir. 1989), 985

Perkins v. Florida Dep't of Health & Rehabilitative Servs.
538 So. 2d 1316 (Fla. Dist. Ct. App. 1989), 290

Perkins v. General Motors Corp.
709 F. Supp. 1487 (W.D. Mo. 1989), 709

Perkins v. Kocher [43,096]; Acc. No. 1011652
531 N.E.2d 231 (Ind. Ct. App. 1988), 177

Perkins v. Walters [43,840]; Acc. No. 1011777
No. C-1-85-375 (S.D. Ohio May 4, 1989), 312

Peters, *Ex parte*
770 S.W.2d 640 (Tex. Ct. App. 1989), 709

Peterson v. Bowen
706 F. Supp. 871 (N.D. Ga. 1988), 283

Peterson v. Scully
707 F. Supp. 759 (S.D.N.Y. 1989), 569

Petitions for Rulemaking N.J.A.C. 10:82-1.2 & 10:85-4.1, *In re* [43,465]; Acc. No. 1012590
117 N.J. 311, 566 A.2d 1154 (1989), 1567

Pettypool v. Department of Economic Sec. [45,015]; Acc. No. 1012177
777 P.2d 230 (Ariz. Ct. App. 1989), 1044

P.H. Inv. v. Oliver [44,980]; Acc. No. 1012121
778 P.2d 11 (Utah Ct. App. 1989), 905

Phearsdorf v. Secretary of HHS [42,730]; Acc. No. 10121496
No. CIV-88-734E (W.D.N.Y. Oct. 11, 1989), 1442

Philadelphia Elec. Co. v. Pennsylvania Unemployment Compensation Bd. of Review
565 A.2d 1246 (Pa. Commw. Ct. 1989), 1475

Philadelphia Police & Fire Ass'n for Handicapped Children, Inc. v. City of Philadelphia
874 F.2d 156 (3d Cir. 1989), 710

Phillips v. Allegheny County, Pa.
869 F.2d 234 (3d Cir. 1989), 283

Phillips v. Neace [44,549]; Acc. No. 1011719
No. 86-44 (E.D. Ky. Jan. 24, 1989), 312

Phillips v. Pennsylvania Hous. Fin. Agency
554 A.2d 607 (Pa. Commw. Ct. 1989), 217

Pierre, *In re* [44,872]; Acc. No. 1012001
No. A23 506 476 (U.S. Dep't of Justice, Exec. Office for Immigration Rev. June 21, 1989), 748

Pierre v. Administrator, La. Office of Employment Sec. [45,175]; Acc. No. 1012314
553 So. 2d 442 (La. 1989), 1346

Pierre v. Sullivan
884 F.2d 799 (5th Cir. 1989), 1382

Pinkney v. Johnston [45,426]; Acc. No. 1012552
No. H-86-1538 (S.D. Tex. Oct. 3, 1989), 1553

Pipiles v. Credit Bureau of Lockport [44,083]; Acc. No. 1012253
886 F.2d 22 (2d Cir. 1989), 1011

Pirus v. Bowen [42,245]; Acc. No. 1011585
869 F.2d 536 (9th Cir. 1989), 171

Pizzolato v. AT&T Technologies
543 So. 2d 601 (La. Ct. App. 1989), 716

Pliley v. Sullivan
892 F.2d 35 (6th Cir. 1989), 1574

Plourde v. Scott Paper Co.
552 A.2d 1257 (Me. 1989), 216

Polendo v. Johnston [43,256]; Acc. No. 1012327
1351

Poling, *In re* [45,287]; Acc. Nos. 1012441; 1012501
No. 763-0762586 (Ohio Dep't of Human Servs. Nov. 29, 1989), 1328, 1445

Ponti v. Kizer [45,362]; Acc. Nos. 1012495; 1012582
No. 363181 (Cal. Super. Ct., Sacramento County, Jan. 16, 1990), 1444, 1554

Poola v. Unemployment Compensation Bd. of Review
555 A.2d 97 (Pa. 1989), 289

Pope v. Bowen
886 F.2d 1038 (8th Cir. 1989), 1473

Pottinger v. City of Miami
720 F. Supp. 955 (S.D. Fla. 1989), 1464

Poverty Resistance Center v. Hart [40,263]; Acc. No. 1012171
216 Cal. Rptr. 545 (Cal. Ct. App. 1989), 1049

Powers v. Department of Social Servs.
446 N.W.2d 505 (Mich. Ct. App. 1989), 1385

Pray v. Iowa Dep't of Human Servs.
436 N.W.2d 55 (Iowa 1989), 222

Prescott v. Philadelphia Hous. Auth.
555 A.2d 305 (Pa. Commw. Ct. 1989), 287

Pribek v. Secretary of HHS
717 F. Supp. 73 (W.D.N.Y. 1989), 1372

Priest v. Canada Life Assurance Co.
446 N.W.2d 352 (Mich. Ct. App. 1989), 1374

Prisoners' Legal Serv. of N.Y. v. N.Y. State Dep't of Correctional Servs.
535 N.E.2d 243 (N.Y. 1988), 285

Proctor v. Proctor
773 P.2d 1389 (Utah Ct. App. 1989), 709

Project B.A.S.I.C. v. Kemp [45,266]; Acc. No. 1012399
No. 89-1910 (1st Cir. Oct. 12, 1989); 721 F. Supp. 1501 (D.R.I. 1989), 1329, 1470

Promulgation of a Regulation Requiring Full Medicare Certification of Participating Skilled Nursing Facilities, *In re* [44,457]; Acc. No. 1012172
1026

Proposed Amendments to the Customer Serv. Regulations of the Philadelphia Gas Works, *In re* [45,171]; Acc. No. 1012306
(Philadelphia Gas Comm'n Aug. 25, 1989), 1340

Prows v. United States Dep't of Justice
704 F. Supp. 272 (D.D.C. 1988), 219

Proyecto San Pablo v. INS [44,970]; Acc. No. 1012131
904

Pruticka v. Posner
714 F. Supp. 119 (D.N.J. 1989), 991

Public Employees Retirement Sys. of Ohio v. Betts
109 S. Ct. 573 (1989), 563

Puckett v. Tennessee Eastman Co.
889 F.2d 1481 (6th Cir. 1989), 1467

Pugliese v. Bowen [44,735]; Acc. No. 1011917
630

— Q —

Q. v. L. [44,436]; Acc. Nos. 1011602; 1012074
109 S. Ct. 2072 (1989), 194, 751

Q., H., *In re*
449 N.W.2d 75 (Wis. Ct. App. 1989), 1572

Quezada-Gomez v. INS
723 F. Supp. 1396 (D. Nev. 1989), 1471

Quiban v. VA
724 F. Supp. 993 (D.D.C. 1989), 1475

Quincy Hous. Auth. v. Cowart [44,473]; Acc. No. 1011638
No. 87-2445 (Mass. Super. Ct., Norfolk County, Mar. 13, 1989), 188

Quincy Hous. Auth. v. Johnson [45,038]; Acc. No. 1012425
No. E-89-0452 (Mass. Dist. Ct., Quincy Div., Nov. 9, 1989), 1333

Quinones v. Suter [42,552]; Acc. No. 1012014
No. 86 C 5712 (N.D. Ill. July 12, 1989), 736

— R —

R., *In re* [44,569]; Acc. No. 1011737
No. SFF 88-410 (Colo. Dep't of Social Servs. Apr. 19, 1989), 314

R., *In re* [44,301]; Acc. No. 1011527
67

R., *In re* [44,590]; Acc. No. 1011756
(SSA, Office of Hearings & App., May 4, 1989), 336

R., *In re* [44,628]; Acc. No. 1011813
No. 1220888Q (N.Y. Dep't of Social Servs. Nov. 18, 1988), 609

R., *In re* [45,447]; Acc. No. 1012576
(S.S.A., Office of Hearings & Appeals, Dec. 22, 1989), 1565

R., B.B., *In re*
566 A.2d 1032 (D.C. 1989), 1571

R/L Assoc., Inc. v. City of Seattle
780 P.2d 838 (Wash. 1989), 1470

Ragin v. The New York Times Co.
726 F. Supp. 953 (S.D.N.Y. 1989), 1571

Rallo v. Secretary of HHS
708 F. Supp. 951 (N.D. Ill. 1989), 571

Ramirez v. Board of Review of Dep't of Employment Sec. [44,449]; Acc. No. 1011614
No. 88 L 50622 (Ill. Cir. Ct., Cook County, Feb. 7, 1989), 203

Ramirez v. Webb [31,766]; Acc. No. 1012114
No. K 81-344 (W.D. Mich. Aug. 7, 1989), 904

Rand, *In re* [44,740]; Acc. No. 1011924
No. 1910 (Me. Dep't of Human Servs. Feb. 16, 1989), 626

Randolph v. Contra Costa County [45,223]; Acc. No. 1012348
1353

Randolph v. New Mexico Employment Sec. Dep't
774 P.2d 435 (N.M. 1989), 715

Rasdall v. Kentucky Unemployment Ins. Comm'n [44,063]; Acc. No. 1011625
No. 88-CI-763 (Ky. Cir. Ct., Warren County, Mar. 21, 1989), 204

Ratliff, *In re* [44,499]; Acc. No. 1011667
190

Reagan v. Secretary of HHS
877 F.2d 123 (1st Cir. 1989), 994

Redman Homes, Inc. v. Employment Div.
777 P.2d 414 (Or. Ct. App. 1989), 997

Reed v. Continental Transactions, Inc. [44,906]; Acc. No. 1012050
729

Reed v. Labor & Indus. Relations Comm'n [45,088]; Acc. No. 1012246
No. 55580 (Mo. Ct. App. May 30, 1989), 1045

Reed v. Nova Enters. [44,769]; Acc. No. 1011966
No. 88-1080-JU (D. Or. June 15, 1989), 597

Reeser v. Esmark, Inc., Pension Bd.
714 F. Supp. 412 (S.D. Iowa 1989), 988

Rehmann v. Maynard
376 S.E.2d 169 (W. Va. 1988), 82

Reid v. Kayye [44,676]; Acc. No. 1011843
885 F.2d 129 (4th Cir. 1989), 625, 1380

Reid v. Reid [45,222]; Acc. No. 1012349
No. 61759/89 (New York City Civ. Ct., Kings County, Oct. 24, 1989), 1337

Renfro v. Cuyahoga County Dep't of Human Servs.
884 F.2d 943 (6th Cir. 1989), 1379

Resident Council of Allen Parkway Village v. HUD [44,608]; Acc. No. 1011784
No. 89-292 (S.D. Tex. Feb. 2, 1989), 320

Reutcke v. Dahm
707 F. Supp. 1121 (D. Neb. 1988), 569

Reyes v. Bowen [44,706]; Acc. No. 1011887
No. 87C-868J (D. Utah Apr. 14, 1989), 631

Reyes v. Canyon County [45,115]; Acc. No. 1012256
1022

Rias v. Department of Employment Sec. [45,036]; Acc. No. 1012204
543 N.E.2d 211, 187 Ill. App. 3d 328 (1989), 1045, 1384

Rias v. Illinois Dep't of Employment Sec.
See Rias v. Department of Employment Sec.

Richards, Marriage of, *In re*
768 P.2d 927 (Or. Ct. App. 1989), 215

Richards v. Cullen
449 N.W.2d 318 (Wis. Ct. App. 1989), 1574

Richardson v. Vanderwilt [45,374]; Acc. No. 1012494
No. CV 89-51 (Cal. Justice Ct., Siskiyou County, Dec. 21, 1989), 1449

Riddick v. Atlantic Veneer
379 S.E.2d 661 (N.C. Ct. App. 1989), 716

Rimback v. Michigan Ins. Bureau [44,958]; Acc. No. 1012224
1026

Rindahl v. St. Louis County Welfare Bd.
437 N.W.2d 686 (Minn. Ct. App. 1989), 565

Ritter v. Wayne County Gen. Hosp. [43,281]
436 N.W.2d 673 (Mich. Ct. App. 1988), 286

Rivas v. Goldome Credit [45,120]; Acc. No. 1012279
No. 446,131 (Tex. Dist. Ct., Travis County, Sept. 27, 1989), 1013

Rivera v. Miller [45,183]; Acc. No. 1012316
1338

Rivero v. Bowen [45,383]; Acc. No. 1012518
No. CV 88-4012 (E.D.N.Y. Oct. 2, 1989), 1455

Rizzi v. Bowen [45,070]; Acc. No. 1012212
(HHS, Health Care Financing Admin., Apr. 1989), 1025

Rizzo v. HHS
708 F. Supp. 520 (W.D.N.Y. 1989), 571

Roberts v. IRS (*In re* Roberts) [44,771]; Acc. No. 1011964
No. 89-C-46-B (N.D. Okla. June 26, 1989), 588

Roberts v. Tennessee Dep't of Correction
887 F.2d 1281 (6th Cir. 1989), 1472

Robertson v. Chen [44,955]; Acc. No. 1012429
No. 1989SP0061 (Ill. Human Rights Comm'n June 16, 1989), 1322

Robinson v. Block [37,244]; Acc. No. 1011570
869 F.2d 202 (3d Cir. 1989), 60

Robinson v. Flaherty
377 S.E.2d 806 (N.C. Ct. App. 1989), 290

Robinson v. Grinker [42,952]; Acc. No. 1011608
No. 40610/87 (N.Y. Sup. Ct., New York County, Jan. 9, 1989), 208

Robinson v. Sprinkle Masonry, Inc. [45,197]; Acc. No. 1012322
No. 136-74-99 (Va. Indus. Comm'n May 16, 1989), 1318

Robinson v. Sullivan
719 F. Supp. 1012 (D. Kan. 1989), 1372

Rodgers v. Department of Employment Sec.
542 N.E.2d 168 (Ill. Ct. App. 1989), 1384

Rodgers v. Sullivan [45,073]; Acc. No. 1012227
No. 88-C-841 (E.D. Wis. Sept. 19, 1989), 1042

Rodriguez, *In re* [45,091]; Acc. No. 1012244
No. 88-048 (S.S.A., Office of Hearings & App., Sept. 18, 1989), 1043

Rodriguez v. Cuomo [44,539]; Acc. No. 1011705
No. 41740/89 (N.Y. Sup. Ct., New York County, Apr. 6, 1989), 330

Rodriquez v. Bowen
865 F.2d 739 (6th Cir. 1989), 81

Rogers v. Isom
709 F. Supp. 115 (E.D. Va. 1989), 569

Rogers v. United States
877 F.2d 1550 (Fed. Cir. 1989), 992

Rogerson v. Secretary of HHS
872 F.2d 24 (3d Cir. 1989), 570

Rojas v. Freda [45,090]; Acc. No. 1012248
No. 89-1177-CIV-T-15B (M.D. Fla. Aug. 19, 1989), 1027

Romero v. Secretary of HHS
707 F. Supp. 249 (W.D. La. 1989), 289

Rooney v. Employment Appeal Bd.
448 N.W.2d 313 (Iowa 1989), 1474

Root v. Root
774 S.W.2d 521 (Mo. Ct. App. 1989), 987

Rose, *In re* [44,772]; Acc. No. 1011962
609

Rose v. Bowen
710 F. Supp. 1357 (N.D. Ga. 1989), 714

Rosebud Sioux Tribe v. South Dakota
709 F. Supp. 1502 (D.S.D. 1989), 712

Ross, Marriage of, *In re*
783 P.2d 331 (Kan. 1989), 1571

Ross v. Pennsylvania Unemployment Compensation Bd. of Review
561 A.2d 1330 (Pa. Commw. Ct. 1989), 997

Rothschild v. Grottenthaler
716 F. Supp. 796 (S.D.N.Y. 1989); 725 F. Supp. 776 (S.D.N.Y. 1989), 1378, 1573

Rowe, *In re* [45,011]; Acc. No. 1012176
(SSA, Office of Hearings & App., June 29, 1989), 1042

Rowling v. Soule [44,971]; Acc. No. 1012130
No. 88-437-D (D.N.H. Aug. 18, 1989), 898

Roy v. Teachers Ins. & Annuity Ass'n
878 F.2d 47 (2d Cir. 1989), 994

Rucker v. Johnson
724 F. Supp. 568 (N.D. Ill. 1989), 1472

Rudden v. Rudden
765 S.W.2d 719 (Mo. Ct. App. 1989), 285

Ruhl v. Bowen
710 F. Supp. 255 (W.D. Mo. 1989), 714

Ruiz v. Kizer [43,863]; Acc. No. 1012356
1323

Rules Adoption Re Inmate Mail to Attorneys, *In re*
557 A.2d 698 (N.J. Super. Ct. App. Div. 1989), 569

Ruppert v. Bowen
871 F.2d 1172 (2d Cir. 1989), 570

Russell v. Heckler
866 F.2d 638 (3d Cir. 1989), 213

Russell v. Sullivan
887 F.2d 170 (8th Cir. 1989), 1463

Ryan v. Burlington County
708 F. Supp. 623 (D.N.J. 1989), 569

— S —

S., *In re* [44,655]; Acc. No. 1011824
(S.S.A., Office of Hearings & Appeals, Apr. 28, 1989), 632

S., *In re* [45,448]; Acc. No. 1012575
(SSA, Office of Hearings & App., Oct. 17, 1989), 1565

S. v. Baksh [45,247]; Acc. No. 1012393
No. 1987 CP 0113 (Ill. Human Rights Comm'n Sept. 26, 1988), 1327

S. v. Flaherty [36,533]; Acc. Nos. 1012071; 1012143
750, 894

S. v. Georgia Bd. of Educ. [45,152]; Acc. No. 1012289
1320

S. v. Toguchi [45,021]; Acc. No. 1012187
No. 89-00201 DAE (D. Haw. June 15, 1989), 1018

S., C., *In re* [44,961]; Acc. No. 1012430
No. 230151484 - Appeal 001 (Pa. Dep't of Pub. Welfare, Office of Hearings & App., July 16, 1989), 1328

S., D.L., *In re*
775 S.W.2d 548 (Mo. Ct. App. 1989), 1375

S., P., *In re*
766 S.W.2d 833 (Tex. Ct. App. 1989), 287

S., R.M., *In re*
542 N.E.2d 1323 (Ill. App. Ct. 1989), 1378

Saar v. United States Dep't of Justice
705 F. Supp. 999 (S.D.N.Y. 1989), 288

Safehouse of Bullhead City v. Zellner [45,119]; Acc. Nos. 1012282; 1012357
No. 30814 (Ariz. Super. Ct., Mohave County, Sept. 28, 1989); (Ariz. Super. Ct., Mohave County, Oct. 23, 1989), 1013, 1316

Sahi v. McMahon [40,789]; Acc. No. 1012568
No. 38756 (Cal. Super. Ct., Siskiyou County, Jan. 18, 1990), 1568

Salem County Welfare Agency v. B. [44,920]; Acc. No. 1012062
No. HPW 6557-88 (N.J. Dep't of Human Servs., Div. of Pub. Welfare, Nov. 23, 1988), 767

Sales v. Marshall
873 F.2d 115 (6th Cir. 1989), 568

Sallis v. Employment Appeal Bd.
437 N.W.2d 895 (Iowa 1989), 571

Salmi v. Secretary of HHS
712 F. Supp. 566 (W.D. Mich. 1989), 706

Saltares v. Bowen
711 F. Supp. 162 (S.D.N.Y. 1989), 714

Samaroff v. Northeast Ill. Regional Commuter R.R. [45,244]; Acc. No. 1012382
1321

Sample v. Diecks
885 F.2d 1099 (3d Cir. 1989), 1380

Sampson County Child Support Enforcement Agency v. Bolton [44,617]; Acc. No. 1011795
377 S.E.2d 88 (N.C. Ct. App. 1989), 222, 309

Sams v. Boston
384 S.E.2d 151 (W. Va. 1989), 1374

Sanchez v. Secretary of HHS
717 F. Supp. 7 (D. Mass. 1988), 1383

Sanders v. Borgert
711 F. Supp. 889 (E.D. Mich. 1989), 713

Sanders v. Shephard [43,579]; Acc. No. 1011984
541 N.E.2d 1150, 185 Ill. App. 3d 719 (1989), 733

Sandry v. Rubin [44,391]; Acc. No. 1011581
No. 86-4717 (Hawaii Sup. Ct. Feb. 27, 1989), 78

Sansom v. United States
707 F. Supp. 1296 (N.D. Fla. 1989), 558

Santiago v. Bowen [44,946]; Acc. No. 1012098
715 F. Supp. 614 (S.D.N.Y. 1989), 908, 1383

Santos v. HUD
No. 87-03443F (Bankr. E.D. Pa. Mar. 13, 1989), 186

Sapien, *In re* [44,717]; Acc. No. 1011897
No. 89-049-5-4 (Idaho Dep't of Health & Welfare May 23, 1989), 601

Sarrassat v. Sullivan [43,444]; Acc. Nos. 1011833; 1012266
No. C 88-20161 RPA (N.D. Cal. May 18, 1989); (N.D. Cal. Sept. 19, 1989), 604, 1020

Savage v. Aronson [44,743]; Acc. Nos. 1011931; 1012326
No. CV-NH 8904-3142 (Conn. Super. Ct., New Haven, Sept. 20, 1989), 642, 1354

Saylors, *In re*
869 F.2d 1434 (11th Cir. 1989), 284

Sazon v. Francis [44,943]; Acc. Nos. 1012100; 1012589
No. 89-CA-0964 (La. Ct. App. Jan. 30, 1990), 912, 1566

Scates v. Rydingsword [44,692]; Acc. Nos. 1011867; 1012364
No. C89-02060 (Cal. Super. Ct., Contra Costa County, Oct. 24, 1989); (Cal. Super. Ct., Contra Costa County, May 25, 1989), 616, 1333

Schaerrer v. Westman Comm'n Co. [40,846]; Acc. No. 1011539
769 P.2d 1058 (Colo. 1989), 59

Schall v. Joyce [43,896]
885 F.2d 101 (3d Cir. 1989), 1373

Schenck v. Office of the Secretary of La. Dep't of Health & Human Resources [45,179]; Acc. No. 1012319
555 So. 2d 483 (La. Ct. App. 1989), 1325

Scherr v. Woodland School Community Consol. Dist. No. 50
867 F.2d 974 (7th Cir. 1988), 216

Schmidt, *In re* [44,949]; Acc. No. 1012095
(SSA, Office of Hearings & App., Jan. 24, 1989), 910

Schmidt v. Superior Court [39,681]
769 P.2d 932 (Cal. 1989), 286

Schneider, *In re* [44,739]; Acc. No. 1011925
No. 92966540A (Me. Dep't of Human Servs. Mar. 27, 1989), 609

Schneider v. Fulton Hous. Auth. [45,218]; Acc. No. 1012352
No. 89-1016 (N.Y. Sup. Ct., Oswego County, Nov. 3, 1989), 1334

Schoolcraft v. Sullivan [45,479]; Acc. No. 1012591
1564

Schulz v. North Dakota Dep't of Human Servs. [45,391]; Acc. No. 1012517
1433

Schwendeman v. Ives [45,421]; Acc. No. 1012598
1567

Scott v. Hamlet Hous. Auth. [43,152]; Acc. No. 1012081
No. C-88-18-R (M.D.N.C. Aug. 2, 1989), 745

Scott v. Williams [44,364]; Acc. Nos. 1011554; 1012270
No. 89-0167-R (W.D. Va. July 24, 1989), 57, 1010

Seaboy v. Credit Claims & Collections [44,903]; Acc. No. 1012120
(S.D. Cir. Ct., Roberts County, July 20, 1989), 895

Seabrook v. Onondaga Bureau of Medical Economics [44,460]; Acc. No. 1011620
705 F. Supp. 81 (N.D.N.Y. 1989), 177

Seales v. Diaz [43,992]; Acc. No. 1012328
No. 88-C-653 (E.D. Wis. Aug. 10, 1989), 1331

Seawall Assocs. v. City of New York
542 N.E.2d 1059 (N.Y. 1989), 1379

See Moua v. Goodrich [45,219]; Acc. No. 1012351
1352

Segundo v. Rancho Mirage City
873 F.2d 1277 (9th Cir. 1989), 567

Seiders v. Greenberg [45,238]; Acc. No. 1012403
1311

Seneca-Cayuga Tribe v. Oklahoma
874 F.2d 709 (10th Cir. 1989), 712

Sensley v. Administrator, Office of Employment Sec.
552 So. 2d 787 (La. Ct. App. 1989), 1475

Seventh Hous. Corp. v. Levinson [45,329]; Acc. No. 1012449
No. MC-89-14529-RJ (Fla. County Ct., Palm Beach County, Oct. 16, 1989), 1449

S.G. Borello & Sons v. Department of Indus. Relations [43,751]; Acc. No. 1011673
769 P.2d 399 (Cal. 1989), 193

Shannon Eng'g & Constr. v. Employment Sec. Comm'n
549 So. 2d 446 (Miss. 1989), 1384

Sharp v. Bowen
705 F. Supp. 1111 (W.D. Pa. 1989), 289

Sharpe v. Sullivan [27,348]; Acc. No. 1012538
No. 79 Civ. 1977 (CSH) (S.D.N.Y. Jan. 10, 1990), 1564

Sheely v. Wisconsin Dep't of Health & Social Servs. [43,864]; Acc. No. 1011960
442 N.W.2d 1, 150 Wis. 2d 320 (Wis. 1989), 584

Sheffield v. Coler [44,547]; Acc. Nos. 1011710; 1012242
No. 88-814-Civ-T-15A (M.D. Fla. Apr. 10, 1989); (M.D. Fla. Aug. 9, 1989), 340, 1047

Shelby v. Buchignani [44,959]; Acc. No. 1012102
No. 80-127 (E.D. Ky. Nov. 1, 1988), 907

Shelby v. George
381 S.E.2d 269 (W. Va. 1989), 987

Shelor v. Shelor
383 S.E.2d 895 (Ga. 1989), 1385

Shenigo v. Cohen [44,438]; Acc. No. 1011607
No. 85-7221 (E.D. Pa. Dec. 8, 1988), 206

Sherman v. Burke Contracting, Inc.
891 F.2d 1527 (11th Cir. 1990), 1572

Shields v. Sumner Mfg. [45,221]; Acc. No. 1012350
1348

Shohatee v. Caucus Club [44,600]; Acc. No. 1011768
No. 88-813554-AE (Mich. Cir. Ct., Wayne County, Nov. 18, 1988), 339

Shook v. Gaston County Bd. of Educ.
882 F.2d 119 (4th Cir. 1989), 989

Shrader v. Granninger
870 F.2d 874 (2d Cir. 1989), 566

Shuba v. Division of Child Support Enforcement
564 A.2d 1084 (Del. 1989), 1466

Sicherman Management Corp./POMP v. St. Hillaire [44,591]; Acc. No. 1011755
No. 120412/88 (Kings County Ct. Apr. 26, 1989), 329

Sidwell v. McMahon [44,763]; Acc. No. 1011954
637

Sievers v. Unemployment Compensation Bd. of Review
555 A.2d 260 (Pa. Commw. Ct. 1987), 290

Siler v. Illinois Dep't of Employment Sec. [45,373]; Acc. No. 1012493
549 N.E.2d 760, 192 Ill. App. 3d 971 (1989), 1457

Silva v. Department of Employment Sec. [45,406]; Acc. No. 1012544
786 P.2d 246 (Utah Ct. App. 1990), 1550

Simcox v. Simcox
546 N.E.2d 609 (Ill. 1989), 1466

Simmons v. Bowen
711 F. Supp. 503 (N.D. Iowa 1989), 714

Simmons v. Traughber [44,611]; Acc. No. 1011792
No. 88-340-II (Tenn. Ct. App. May 3, 1989), 338

Simms v. Sullivan
877 F.2d 1047 (D.C. Cir. 1989), 994

Simpson v. Hegstrom [40,233]; Acc. No. 1011819
873 F.2d 1294 (9th Cir. 1989), 636

Sing Louie v. Myers [44,878]; Acc. No. 1012007
752

Sioux City Brick & Tile Co. v. Employment Appeal Bd.
449 N.W.2d 634 (Iowa 1989), 1575

Skelley v. Bowen
See Skelley v. Sullivan

Skelley v. Sullivan [44,371]; Acc. Nos. 1011556; 1011883
No. H-89-025 (AHN) (D. Conn. May 12, 1989), 61, 604

Skinner v. Railway Labor Executives Ass'n; National Treasury Employees Union v. Von Raab
109 S. Ct. 1402 (1989), 215

Skipper v. Suter [37,338]; Acc. No. 1012476
No. 87 C 7738 (N.D. Ill. Dec. 4, 1989), 1441

Sladek v. Bell Sys. Management Pension Plan
880 F.2d 972 (7th Cir. 1989), 994

Slezak v. Leeke
378 S.E.2d 65 (S.C. Ct. App. 1989), 284

Small v. Secretary of HHS
892 F.2d 15 (2d Cir. 1989), 1574

Smallwood v. Renfro
708 F. Supp. 182 (N.D. Ill. 1989), 568

Smith v. Babcock [44,871]; Acc. No. 1012012
No. 89-CV-10197-BC (E.D. Mich. Aug. 1, 1989), 764

Smith v. Bowen [43,894]; Acc. No. 1011612
175

Smith v. Bowen [43,348]
867 F.2d 731 (2d Cir. 1989), 213

Smith v. Bowen [44,684]; Acc. No. 1011857
862 F.2d 1165 (5th Cir. 1989), 627

Smith v. Bowen
714 F. Supp. 141 (W.D. Pa. 1989), 996

Smith v. Concannon [45,037]; Acc. No. 1012201
1021

Smith v. Fidelity Consumer Discount [43,229]; Acc. No. 1011972
Nos. 88-1406, 88-1444 (3d Cir. June 27, 1989), 728

Smith v. First Am. Bank, N.A.
876 F.2d 524 (6th Cir. 1989), 707

Smith v. HUD [45,403]; Acc. No. 1012559
No. 89-0612L (D.R.I. Jan. 19, 1990), 1558

Smith v. Justice of the Peace Court No. 1 [45,348]; Acc. No. 1012456
1451

Smith v. South Carolina Dep't of Social Servs. [44,501]; Acc. No. 1011675
No. 88-CP-42-724 (S.C. C.P. Ct. Mar. 21, 1989), 208

Smith v. Superior Court of Ariz. [44,715]; Acc. No. 1011895
(Ariz. Ct. App. June 8, 1989), 594

Smith v. Washington Dep't of Employment Sec.
780 P.2d 1335 (Wash. Ct. App. 1989), 1475

Smith v. Wells Fargo Credit Corp.
713 F. Supp. 354 (D. Ariz. 1989), 986

Smolak, *In re* [45,293]; Acc. No. 1012521
(HUD, Region V, Detroit Office, Oct. 24, 1989), 1450

Smolarek v. Chrysler Corp.
879 F.2d 1326 (6th Cir. 1989), 988

Sneede v. Kizer [44,687]; Acc. Nos. 1011862; 1012557
No. 651427-1 (Cal. Super. Ct., Alameda County, May 17, 1989); 728 F. Supp. 607 (N.D. Cal. 1990), 607, 1553

Snow v. Lucas County Dep't of Human Servs. [44,698]; Acc. No. 1011874
583

Society for Good Will for Retarded Children v. Cuomo [26,198]
718 F. Supp. 139 (E.D.N.Y. 1989), 1378

Solis v. Department of Health & Rehabilitative Servs. [45,167]; Acc. No. 1012308
1353

Sonnenblick, *In re* [45,123]; Acc. No. 1012276
No. 89-1005, 10006 (Conn. Dep't of Income Maintenance Sept. 21, 1989), 1036

Sorenson v. Bowen
709 F. Supp. 1045 (D. Utah 1988), 571

Sorenson v. Pine County Welfare Bd. [45,241]; Acc. No. 1012392
No. C8-89-226 (Minn. Dist. Ct., Pine County, Nov. 7, 1989), 1356

South Dakota *ex rel.* J., *In re* [44,901]; Acc. No. 10112040
751

South Dakota Stockgrowers Ass'n, Inc. v. Holloway
438 N.W.2d 561 (S.D. 1989), 571

Southeastern Pa. Transp. Auth. v. Association of Community Orgs. for Reform Now
563 A.2d 565 (Pa. Commw. Ct. 1989), 1384

Southwest Wyo. Rehabilitation Center v. Employment Sec. Comm'n of Wyo. [45,250]; Acc. No. 1012385
781 P.2d 918 (Wyo. 1989), 1346

Sparks v. Aluminum Serv. Co. (*In re* Sparks) [44,601]; Acc. No. 1011767
304

Sparks v. Indiana Dep't of Employment & Training Servs. [44,431]; Acc. No. 1011594
531 N.E.2d 227 (Ind. Ct. App. 1988), 203

Spencer v. Credit Bureau of Lockport [45,350]; Acc. No. 1012458
1436

Spiegler v. District of Columbia
866 F.2d 461 (D.C. Cir. 1989), 214

Spielman v. Hilderbrand
873 F.2d 1377 (10th Cir. 1989), 561

Spradling v. Harris
778 P.2d 365 (Kan. Ct. App. 1989), 1375

Springer v. Department of Pub. Welfare
562 A.2d 1033 (Pa. Commw. Ct. 1989), 998

Sprow v. Bowen
865 F.2d 207 (9th Cir. 1989), 88

Spruce Park Apartments v. Beckett
553 A.2d 395 (N.J. Super. Ct. Law Div. 1988), 217

Squire v. General Motors Corp.
436 N.W.2d 739 (Mich. Ct. App. 1989), 285

St. Amand v. Commissioner, Me. Dep't of Human Servs. [44,974]; Acc. No. 1012169
1050

St. Clair County Hous. Auth. v. Turner [44,680]; Acc. No. 1011848
No. 89-LM-451 (Ill. Cir. Ct., St. Clair County, May 19, 1989), 618

St. John's Home for Children v. Human Rights Comm'n
375 S.E.2d 769 (W. Va. 1988), 84

Stanley v. Review Bd. of Dep't of Employment & Training Servs. [44,302]; Acc. No. 1011528
528 N.E.2d 811 (Ind. Ct. App. 1988)., 76

Stansberry v. Thorp Loan & Thrift [44,609]; Acc. No. 1011778
306

Starks v. Rent-A-Center [45,215]; Acc. No. 1012337
No. 89-9211 (Minn. Dist. Ct., Hennepin County, Nov. 20, 1989), 1313

State College Manor, *In re* [45,121]; Acc. No. 1012278
(Pa. Commw. Ct. Sept. 26, 1989), 1024

Stedman v. Pederson (*In re* Pederson)
875 F.2d 781 (9th Cir. 1989), 707

Steeves v. Spencer [37,334]; Acc. Nos. 1012085; 1012215
No. H-84-1045 (PCD) (D. Conn. Nov. 30, 1988); (D. Conn. Sept. 14, 1989), 739, 1007

Stein v. Sullivan
892 F.2d 43 (7th Cir. 1989), 1574

Stephens, *In re* [45,279]; Acc. No. 1012418
1309

Stephens, *In re* [44,892]; Acc. No. 1012027
No. 907720 (Ohio Dep't of Human Servs. July 7, 1989), 737

Stephenson v. Blackburn [44,420]; Acc. No. 1011589
No. 15A04-8708-CV-250 (Ind. Ct. App. Mar. 2, 1988), 178

Sterling v. Wylie (*In re* Wylie) [44,592]; Acc. No. 1011757
No. 88-04582-THK (Bankr. E.D. La. May 5, 1989), 302

Stevens v. Raymond
773 S.W.2d 935 (Tenn. Ct. App. 1989), 988

Stevens v. Stevens [44,634]; Acc. No. 1011803
No. 28307 (Ariz. Super. Ct., Mohave County, Apr. 20, 1989), 310

Steward v. Texas Employment Comm'n [44,675]; Acc. No. 1011844
634

Stewart v. Big Horn County [44,672]; Acc. No. 1011838
589

Stewart v. Salzman [44,333]; Acc. No. 1012046
No. N-87-319 (PCD) (D. Conn. Nov. 20, 1987), 729

Stewart v. Sullivan
881 F.2d 740 (9th Cir. 1989), 995

Stocks v. Sullivan
717 F. Supp. 397 (E.D.N.C. 1989), 1373

Stone, *In re*
534 N.E.2d 213 (Ill. App. Ct. 1989), 218

Stone v. Richardson [44,917]; Acc. No. 1012066
No. 88-CA-1912-OA (Ky. Ct. App. Oct. 6, 1988), 725

Storey v. Bowen [44,636]; Acc. No. 1011805
No. 88-1084 K (D. Kan. Apr. 28, 1989), 333

Stoval v. Russellville Health Care [45,439]; Acc. No. 1012562
1567

Strandell, *In re*
562 A.2d 173 (N.H. 1989), 992

Strankowski v. Strankowski
447 N.W.2d 323 (N.D. 1989), 1466

Stratton v. Bowen
704 F. Supp. 670 (W.D. Va. 1988), 220

Straw v. Bowen
866 F.2d 1167 (9th Cir. 1989), 213

Streb v. Streb
774 P.2d 798 (Alaska 1989), 707

Strickland, *In re* [44,861]; Acc. No. 1011985
(SSA, Office of Hearings & App., June 27, 1989), 757

Strobhar v. Pennsylvania Dep't of Pub. Welfare
557 A.2d 440 (Pa. Commw. Ct. 1989), 572

Strong, *In re* [44,891]; Acc. No. 1012028
No. B-0051-89-AFDC (Ariz. Dep't of Econ. Sec. Appeals Bd. July 26, 1989), 766

Stroop v. Bowen [43,018]
870 F.2d 969 (4th Cir. 1989), 572

Su Thi Nguyen v. Sullivan [45,282]; Acc. No. 1012422
No. 89-1269-Z (D. Mass. Nov. 6, 1989), 1343

Sullivan v. Everhart [43,697]; Acc. No. 1011775
330

Sullivan v. Hudson
109 S. Ct. 2248 (1989), 558

Sullivan v. Kuehling
777 S.W.2d 952 (Mo. Ct. App. 1989), 1379

Sullivan v. Michigan Employment Sec. Comm'n [45,291]; Acc. No. 1012443
No. 88-15431-AE (Mich. Cir. Ct., Monroe County, Nov. 20, 1989), 1347

Sullivan v. Zebley [43,127]; Acc. Nos. 1011572; 1011715
72, 331

Summeries v. Chicago Hous. Auth. [45,004]; Acc. No. 1012167
1027

Summers v. Salt Lake County
713 F. Supp. 1415 (D. Utah 1989), 993

Sundholm, Marriage of, *In re*
448 N.W.2d 688 (Iowa Ct. App. 1989), 1572

Swann, *In re* [45,434]; Acc. No. 1012566
(SSA, Office of Hearings & App., Nov. 14, 1989), 1565

Swartz v. Gantz Inv. Properties [42,572]; Acc. No. 1012525
1437

Swenson v. Sullivan
876 F.2d 683 (9th Cir. 1989), 714

Sylvester v. HUD [44,792]; Acc. No. 1011974
No. 88-1134 (E.D. La. June 26, 1989), 745

Szostek, *In re* [45,281]; Acc. No. 1012309
886 F.2d 1405 (3d Cir. 1989), 1306

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T., *In re* [44,483]; Acc. No. 1011643
(SSA, Office of Hearings & App., Mar. 24, 1989), 201

T., *In re* [44,626]; Acc. No. 1011818
No. 1209511N (N.Y. Dep't of Social Servs. Dec. 9, 1988), 643

T. v. T. [45,248]; Acc. Nos. 1012394; 1012502
No. 18989 (W. Va. Sup. Ct. App. Dec. 21, 1989), 1315, 1440

Tabib v. Bowen [43,692]; Acc. No. 1011609
199

Tamez v. Sullivan
888 F.2d 334 (5th Cir. 1989), 1473

Tank v. HUD [44,694]; Acc. Nos. 1011869; 1012156
No. 88-CV-73589-DT (E.D. Mich. July 31, 1989), 613, 902

Tapley v. Akron Metro. Hous. Auth. [44,579]; Acc. No. 1011744
No. CV 88 4 1215 (Ohio C.P. Ct., Summit County, Sept. 30, 1988), 323

Tax Refunds, Inc. v. Depp [44,587]; Acc. No. 1011748
306

Taylor v. O'Grady [45,202]; Acc. No. 1012343
888 F.2d 1189 (7th Cir. 1989), 1317

Taylor v. Peabody Coal Co.
892 F.2d 503 (7th Cir. 1989), 1573

Taylor v. Perales [45,169]; Acc. No. 1012304
1356

Taylor v. Steinbacher [44,764]; Acc. No. 1011955
No. C83-419 (N.D. Ohio May 22, 1989), 633

Taylor v. Taylor
775 P.2d 703 (Nev. 1989), 987

Taylor v. Unemployment Ins. Appeal Bd.
565 A.2d 276 (Del. Super. Ct. 1989), 1475

Tedder v. Odel
890 F.2d 210 (9th Cir. 1989), 1464

Tedesco Mfg. Co., Inc. v. Unemployment Compensation Bd. of Review
552 A.2d 754 (Pa. Commw. Ct. 1989), 89

Teeter v. Supplemental Pension Plan of Consol. Rail Corp.
705 F. Supp. 1089 (E.D. Pa. 1989), 289

Tellurian U.C.A.N., Inc. v. Goodrich [45,192]; Acc. No. 1012434
1330

Tenants Against Mismanagement v. Kemp [44,604]; Acc. No. 1011780
No. 88-2198-T (D. Mass. Mar. 3, 1989), 319

Tennessee Consol. Coal Co. v. Crisp
866 F.2d 179 (6th Cir. 1989), 85

Tennessee Dep't of Human Servs. Reconsideration Hearing, *In re* [44,445]; Acc. No. 1011653
No. 88-184 (HHS, Departmental Appeals Bd., Feb. 28, 1989), 210

Tepfer v. Secretary of HHS
712 F. Supp. 156 (W.D. Ark. 1989), 714

Terrell, *In re* [44,602]; Acc. No. 1011766
(SSA, Office of Hearings & App., May 12, 1988), 336

Terry v. Anderson County Bd. of Comm'rs [44,693]; Acc. No. 1011868
625

Terry v. Bowen
711 F. Supp. 526 (D. Ariz. 1989), 706

Texas Health Care Ass'n v. Bowen [44,361]; Acc. No. 1011550
710 F. Supp. 1109 (W.D. Tex. 1989), 62

Texas Medical Ass'n v. Sullivan
875 F.2d 1160 (5th Cir. 1989), 710

Texas Rural Legal Aid v. Legal Servs. Corp. [45,430]; Acc. No. 1012510
1431

Texas State Teachers Ass'n v. Garland Indep. School Dist.
109 S. Ct. 1486 (1989), 213

Thatch v. Illinois Dep't of Pub. Aid [44,860]; Acc. No. 1011989
No. 88 CH 4378 (Ill. Cir. Ct., Cook County, June 29, 1989), 742

Therrien v. Resource Fin. Group [43,098]; Acc. Nos. 1011651; 1011717
704 F. Supp. 322 (D.N.H. 1989); No. C-88-128-L (D.N.H. Apr. 10, 1989), 176, 304

Thetford Properties IV Ltd. Partnership v. United States [44,242]; Acc. No. 1011536
65

Thetford Properties IV Ltd. Partnership v. HUD [44,241]; Acc. Nos. 1011535; 1011637; 1011935
No. 88-869-CIV-5 (E.D.N.C. May 26, 1989), 65, 185, 613

Thibadeau v. Thibadeau
441 N.W.2d 281 (Wis. Ct. App. 1989), 709

Thielking v. Mercy Care Plan [45,389]; Acc. No. 1012515
1444

Thomas v. Department of Employment & Training Serv.
543 N.E.2d 397 (Ind. Ct. App. 1989), 1384

Thomas v. Pennsylvania Unemployment Compensation Bd. of Review
560 A.2d 922 (Pa. Commw. Ct. 1989), 997

Thomas v. Sullivan [42,172]
713 F. Supp. 114 (S.D.N.Y. 1989), 996

Thomas v. United States Steel Corp.
868 F.2d 1523 (11th Cir. 1988), 286

Thompson v. Board of Educ. of Chicago [45,034]; Acc. Nos. 1012200; 1012329
711 F. Supp. 394 (N.D. Ill. 1989), 1011, 1310

Thompson v. Secretary of HHS
721 F. Supp. 34 (W.D.N.Y. 1989), 1474

Thompson v. Sullivan
878 F.2d 1108 (8th Cir. 1989), 995

Thompson v. Sullivan
715 F. Supp. 1019 (D. Kan. 1989), 1372

Thompson v. Sundholm
726 F. Supp. 147 (S.D. Tex. 1989), 1571

Thornburgh, *In re*
869 F.2d 1503 (D.C. Cir. 1989), 565

Thornburgh v. Abbott
109 S. Ct. 1874 (1989), 287

Thorne v. Padgett
386 S.E.2d 155 (Ga. 1989), 1571

Thornock v. Boise Indep. School Dist. 1
767 P.2d 1241 (Idaho 1988), 216

Thorsen v. Minnesota [44,521]; Acc. No. 1011714
No. WA-87-5946 (Minn. Dist. Ct., Hennepin County, Nov. 10, 1988), 342

Tiedel v. Northwestern Mich. College
865 F.2d 88 (6th Cir. 1988), 81

Tietjen v. VA
884 F.2d 514 (9th Cir. 1989), 1385

Tillis v. Housing Auth. of Atlanta, Ga. [45,437]; Acc. No. 1012564
No. D73401 (Ga. Super. Ct., Fulton County, Nov. 29, 1989), 1560

Tinsley v. Kemp [44,154]; Acc. No. 1012498
No. 89-0023-CV-W-1 (W.D. Mo. Jan. 3, 1990), 1447

Tirado v. Bowen [44,372]; Acc. No. 1011559
705 F. Supp. 179 (S.D.N.Y. 1989), 74

Tolbert v. First Nat'l Bank
772 P.2d 1373 (Or. Ct. App. 1989), 707

Tolson v. Sheridan School Dist. [45,018]; Acc. No. 1012192
No. PB-C-86-44 (E.D. Ark. Aug. 29, 1989), 1014

Tonelli v. Director, Office of Workers' Compensation Programs, DOL
878 F.2d 1083 (8th Cir. 1989), 990

Toney v. Burris [40,994]
881 F.2d 450 (7th Cir. 1989), 988

Toney v. Department of Pub. Welfare
561 A.2d 75 (Pa. Commw. Ct. 1989), 998

Torner v. Reagen
437 N.W.2d 553 (Iowa 1989), 559

Torres v. Lyng [45,029]; Acc. No. 1012199
No. 86 Civ. 1632 (PKL) (S.D.N.Y. Aug. 1989), 1017

Touset v. Medicredit, Inc. [45,008]; Acc. No. 1012166
1012

Toussaint v. Rowland
711 F. Supp. 536 (N.D. Cal. 1989), 712

Township of Bernards v. New Jersey Dep't of Community Affairs
558 A.2d 1 (N.J. Super. Ct. App. Div. 1989), 562

Trahan v. Regan [42,658]
724 F. Supp. 1005 (D.D.C. 1989), 1463

Transport Workers' Union v. Southeastern Pa. Transp. Auth.
884 F.2d 709 (3d Cir. 1988), 1376

Travelers Ins. Cos. v. Fountain City Fed. Credit Union
889 F.2d 264 (11th Cir. 1989), 1465

Travieso v. Marshall [45,404]; Acc. No. 1012530
No. 89 C 01650 (Burbank, Cal., Mun. Ct. Dec. 5, 1989), 1431

Trent, *In re* [45,122]; Acc. No. 1012277
(Spokane Hous. Auth. Aug. 28, 1989), 1032

Tribal Village of Akutan v. Hodel
869 F.2d 1185 (9th Cir. 1988), 286

Trout v. Garrett
891 F.2d 332 (D.C. Cir. 1989), 1570

Tucker v. Atwood [37,742]
880 F.2d 1251 (11th Cir. 1989), 990

Tulare County Hous. Auth., *In re* [44,552]; Acc. No. 1011720
324

Turley v. Board of Review of W. Va. Dep't of Employment Sec. [44,897]; Acc. No. 1012038
No. 89-AA-35 (W. Va. Cir. Ct., Kanawha County, July 27, 1989), 760

Turner v. Bowen
862 F.2d 708 (8th Cir. 1988), 88

Turner v. City of New Orleans [42,804]; Acc. No. 1012541
No. 87-8281 (La. Civ. Dist. Ct., Orleans Parish, Apr. 26, 1989), 1569

Turner v. Illinois Human Rights Comm'n
532 N.E.2d 392 (Ill. App. Ct. 1988), 85

Turner v. Kizer [44,359]; Acc. No. 1011549
No. 645823-6 (Cal. Super. Ct., Alameda County, Mar. 2, 1989), 62

Turner v. Perales [41,234]; Acc. No. 1011670
869 F.2d 140 (2d Cir. 1989), 204

Turner v. United Cerebral Palsy Ass'n
772 P.2d 628 (Colo. Ct. App. 1988), 565

Turpin v. Sullivan [44,994]; Acc. No. 1012151
909

Tuttle, Marriage of, *In re*
764 S.W.2d 99 (Mo. Ct. App. 1988), 215

Twomey v. Indiana Dep't of Pub. Welfare [44,674]; Acc. No. 1011845
607

Tyler v. Housing Auth. of Kansas City
781 S.W.2d 110 (Mo. Ct. App. 1989), 1573

— U —

United Farm Workers of Am. v. INS [42,723]; Acc. No. 1011701
No. S-87-1064-JFM (E.D. Cal. Apr. 5, 1989), 325

United States v. Certain Leasehold Interests [45,072]; Acc. No. 1012228
1028

United States v. Charters
863 F.2d 302 (4th Cir. 1988), 86

United States v. Charlottesville Redevelopment & Hous. Auth.
718 F. Supp. 461 (W.D. Va. 1989), 1379

United States v. Continental Transactions [44,335]; Acc. No. 1012053
No. 1:88-CV-1816-ODE (N.D. Ga. Aug. 30, 1988), 729

United States v. Debt Collectors [44,336]; Acc. No. 1012054
No. H-88-4218 (S.D. Tex. Dec. 5, 1988), 729

United States v. Downtown Jewish Home for the Aged [45,082]; Acc. No. 1012233
No. 87-4165 (E.D. Pa. Mar. 2, 1989), 1022

United States v. Hopkins Dodge Sales, Inc.
707 F. Supp. 1078 (D. Minn. 1989), 558

United States v. John Wanamaker, Philadelphia [44,328]; Acc. No. 1012042
No. 89-1466 (E.D. Pa. Feb. 27, 1989), 730

United States v. Santos-Vanegas
878 F.2d 247 (8th Cir. 1989), 991

United States v. Thompson
708 F. Supp. 1206 (D.N.M. 1989), 567

United States v. Wilson
881 F.2d 596 (9th Cir. 1989), 993

University of S. Ala., *Ex parte*
541 So. 2d 535 (Ala. 1989), 707

Upchurch v. Upchurch
767 S.W.2d 629 (Mo. Ct. App. 1989), 562

Upson v. Watson [43,792]; Acc. No. 1012082
No. CIV-88-1373-W (W.D. Okla. July 31, 1989), 764

Urban League v. Mayor & Council
559 A.2d 1369 (N.J. 1989), 985

USX Corp. v. Pennsylvania Unemployment Compensation Bd. of Review
551 A.2d 389 (Pa. Commw. Ct. 1988), 89

Utah Dep't of Social Servs. v. Vijil [44,979]; Acc. No. 1012122
784 P.2d 1130 (Utah 1989), 907

Utah State Coalition of Senior Citizens v. Utah Power & Light Co.
776 P.2d 632 (Utah 1989), 985

— V —

V., A.E., *In re*
782 P.2d 858 (Colo. Ct. App. 1989), 1471

Vaitsis, *In re* [45,168]; Acc. No. 1012303
(S.S.A., Office of Hearings & Appeals, Oct. 6, 1989), 1345

Valentine v. United States
706 F. Supp. 77 (D.D.C. 1989), 286

Valentine v. Wroten [45,433]; Acc. No. 1012567
1551

Valenzuela v. Coalinga-Huron Unified School Dist. [44,757]; Acc. Nos. 1011948; 1012116
No. CV-F-89 428 REC (E.D. Cal. July 31, 1989), 596, 896

Valerio v. Bowen [45,256]; Acc. No. 1012395
No. EP-87-CA-381H (W.D. Tex. Oct. 31, 1989), 1344

Vallina v. Meese
704 F. Supp. 769 (E.D. Mich. 1989), 219

Vander Laan v. Mulder
443 N.W.2d 491 (Mich. Ct. App. 1989), 997

Vanscoter v. Thompson [41,726]; Acc. Nos. 1011697; 1012024
No. 89-35151 (9th Cir. Mar. 29, 1989), 340, 761

Vargas v. Bowen
712 F. Supp. 331 (S.D.N.Y. 1989), 715

Vasquez v. Coughlin
726 F. Supp. 466 (S.D.N.Y. 1989), 1574

Vassallo v. Vassallo
540 So. 2d 1300 (La. Ct. App. 1989), 562

Vega v. Bowen
710 F. Supp. 453 (E.D.N.Y. 1989), 715

Velasquez v. Michigan Senate [44,686]; Acc. No. 1011859
No. 88-62679-CZ (Mich. Cir. Ct., Ingham County, May 9, 1989), 624

Vena v. Buckner [44,358]; Acc. No. 1011551
No. 88-463 (Tenn. Ch. Ct., Putnam County, Feb. 24, 1989), 88

Verland C.L.A., Inc. v. Zoning Hearing Bd.
556 A.2d 4 (Pa. Commw. Ct. 1989), 286

Vermont Dep't of Social Welfare *ex rel.* Packard v. Cargile
546 N.E.2d 301 (Ind. 1989), 1466

Verna v. Coler
710 F. Supp. 1339 (S.D. Fla. 1989), 710

Via v. Colonia Am. Nat'l Bank (*In re* Via) [45,232]; Acc. No. 1012387
No. 7-89-00223-BKC-HPR (Bankr. W.D. Va. Sept. 25, 1989), 1307

Vianello v. Housing Fin. Agency
562 A.2d 441 (Pa. Commw. Ct. 1989), 991

Victoria Bank & Trust Co. v. Brady
779 S.W.2d 893 (Tex. Ct. App. 1989), 1465

Vigliotto v. Terry
873 F.2d 1201 (9th Cir. 1989), 568

Villa Del Sol Apartments v. Gill [44,610]; Acc. No. 1011793
328

Village of Gambell v. Hodel [41,883]
869 F.2d 1273 (9th Cir. 1989), 287

Virginia Employment Comm'n v. Gantt
376 S.E.2d 808 (Va. Ct. App. 1989), 221

Virginia Employment Comm'n v. Sutphin
380 S.E.2d 667 (Va. Ct. App. 1989), 716

VOA Autumnwood Care Center v. Shiff
542 N.E.2d 1121 (Ohio Mun. Ct. 1988), 1378

Vorster v. Bowen
See Vorster v. Sullivan

Vorster v. Sullivan [37,838]; Acc. No. 1012213
709 F. Supp. 934 (C.D. Cal. 1989), 564, 1020

Voth v. Bowen
702 F. Supp. 271 (D. Kan. 1988), 88

— W —

W. v. Rochester, N.H., School Dist. [44,667]; Acc. No. 1011881
875 F.2d 954 (1st Cir. 1989), 602

W. v. Tirozzi [39,487]
706 F. Supp. 164 (D. Conn. 1989), 286

W., Christopher v. Portsmouth School Comm.
877 F.2d 1089 (1st Cir. 1989), 989

W., T.R., *In re*
536 N.E.2d 74 (Ill. App. Ct. 1989), 561

Wade v. Jobe [45,423]; Acc. No. 1012553
1562

Waite v. Housing Auth. of City of Newport [44,658]; Acc. No. 1011821
No. 89-0054B (D.R.I. May 12, 1989), 614

Waldrop v. Evans
871 F.2d 1030 (11th Cir. 1989), 568

Walker, *In re*
546 N.E.2d 520 (Ill. 1989), 1465

Walker, *In re* [44,954]; Acc. No. 1012094
(S.S.A., Office of Hearings & Appeals, Feb. 10, 1989), 911

Walker v. Bowen
876 F.2d 1097 (4th Cir. 1989); 889 F.2d 47 (4th Cir. 1989), 714, 1473

Walker v. Colorado Dep't of Social Servs. [44,919]; Acc. No. 1012064
742

Walker v. Concannon [45,198]; Acc. No. 1012342
1324

Walker v. Secretary of HHS
884 F.2d 241 (6th Cir. 1989), 1382

Wallace v. Bowen
869 F.2d 187 (3d Cir. 1988), 289

Walsh v. Clare Ltd. Dividend Hous. Ass'n [45,369]; Acc. No. 1012486
No. 88-CV-10321-BC (E.D. Mich. Dec. 6, 1989), 1446

Walt Bennett Ford, Inc. v. Keck
768 S.W.2d 28 (Ark. 1989), 560

Walter v. Secretary of HHS [44,098]; Acc. No. 1011700
No. 88-1991 (W.D. Pa. Apr. 13, 1989), 334

Walters, *In re*
539 N.E.2d 454 (Ill. App. Ct. 1989), 712

Ward, *In re* [44,948]; Acc. No. 1012096
(SSA, Office of Hearings & App., Oct. 12, 1988), 911

Ward v. Harding [45,077]; Acc. No. 1012236
1016

Ward v. Thomas
708 F. Supp. 212 (N.D. Ill. 1989), 568

Wards Cove Packing Co. v. Atonio
109 S. Ct. 2115 (1989), 562

Wareham v. Jeffes
564 A.2d 1314 (Pa. Commw. Ct. 1989), 1472

Warr v. Horsley
705 F. Supp. 540 (M.D. Ala. 1989). 216

Washburn v. Vandiver
379 S.E.2d 65 (N.C. Ct. App. 1989), 560

Washington Hosp. v. White
889 F.2d 1294 (3d Cir. 1989), 1464

Wasson v. Willmarth [44,526]; Acc. No. 1011694
No. CV388-240DR (Mo. Cir. Ct., Marion County, Mar. 10, 1989), 316

Waters v. Albanese
547 So. 2d 197 (Fla. Dist. Ct. App. 1989), 1374

Waters v. Bowen
709 F. Supp. 278 (D. Mass. 1989), 571

Watters, Marriage of, *In re*
782 P.2d 1220 (Colo. Ct. App. 1989), 1464

Watts v. Pennsylvania Hous. Fin. Co. [42,578]; Acc. No. 1011890
876 F.2d 1090 (3d Cir. 1989), 585

Waudby v. Bowen
713 F. Supp. 325 (W.D. Mo. 1989), 996

Weaver v. New York City Employees' Retirement Sys.
717 F. Supp. 1039 (S.D.N.Y. 1989), 1381

Weaver v. Reagen [44,533]; Acc. No. 1012287
701 F. Supp. 717 (W.D. Mo. 1988); 886 F.2d 194 (8th Cir. 1989), 85, 1322

Weber v. Albrecht
437 N.W.2d 77 (Minn. Ct. App. 1989), 285

Weetman v. Sullivan
877 F.2d 20 (9th Cir. 1989), 714

Wehunt v. Ledbetter
See Brown v. Ledbetter

Weidner v. Weidner
553 A.2d 263 (Md. Ct. Spec. App. 1989), 215

Weisbrod v. Sullivan
875 F.2d 526 (5th Cir. 1989), 706

Welsh v. Review Bd. of Ind. Employment Sec. Div. [44,423]; Acc. No. 1011598
No. 93A02-8702-EX-83 (Ind. Ct. App. June 14, 1988), 203

Wensel v. Director, Office of Workers' Compensation Programs
888 F.2d 14 (3d Cir. 1989), 1469

Wensil v. Ritchie [45,087]; Acc. No. 1012245
No. 89-228A (E.D. Va. Apr. 27, 1989), 1029

West v. Bowen [44,143]; Acc. No. 1012269
879 F.2d 1122 (3d Cir. 1989), 1016

Westchester County Medical Center v. Hall [44,046]; Acc. No. 1012230
1022

Westmiller v. Sullivan [42,721]; Acc. No. 1012497
729 F. Supp. 260 (W.D.N.Y. 1990), 1443

Weyburn v. Florida Dep't of Health & Rehabilitative Servs.
535 So. 2d 680 (Fla. Dist. Ct. App. 1988), 90

Weychert v. Department of Pub. Welfare
551 A.2d 605 (Pa. Commw. Ct. 1988), 86

Wharton v. Bowen
710 F. Supp. 903 (E.D.N.Y. 1989), 715

Wheeler v. Bowen
877 F.2d 652 (8th Cir. 1989); 888 F.2d 1233 (8th Cir. 1989), 995, 1473

White v. Bennett
See Bennett v. White

White v. Pollock [44,573]; Acc. No. 1011740
No. 2537 (Pa. C.P. Ct., Philadelphia County, Mar. 27, 1987), 307

White v. Secretary of Army
878 F.2d 501 (D.C. Cir. 1989), 997

White v. Union County
377 S.E.2d 93 (N.C. Ct. App. 1989), 217

White v. White
543 So. 2d 126 (La. Ct. App. 1989), 708

Whitehead v. Turnage
701 F. Supp. 795 (W.D. Wash. 1988), 89

Whitney v. Dep't of Employment Sec.
783 P.2d 459 (Nev. 1989), 1575

Whittaker v. Philadelphia Elec. Co. (Whittaker, *In re*)
882 F.2d 791 (3d Cir. 1989), 1373

Wiegand v. Secretary of HHS
710 F. Supp. 1153 (S.D. Ohio 1989), 706

Wiggins v. Maryland [44,574]; Acc. No. 1011736
554 A.2d 356 (Md. Ct. App. 1989), 307

Wilcox v. Ives [40,813]; Acc. No. 1012264
No. 85-0342-P (D. Me. July 28, 1989), 1008

Wilder v. Tanouye
782 P.2d 347 (Haw. Ct. App. 1988), 1472

Wiley v. Consolidation Coal Co.
892 F.2d 498 (6th Cir. 1989), 1573

Wilkerson v. Sullivan [44,589]; Acc. Nos. 1011758; 1012217; 1012358
727 F. Supp. 925 (E.D. Pa. 1989), 335, 1041, 1342

Wilks v. Taylor School Dist.
435 N.W.2d 436 (Mich. Ct. App. 1988), 216

Will v. Michigan Dep't of State Police
109 S. Ct. 2304 (1989), 559

Willey v. Clevenger [44,303]; Acc. No. 1011526
No. IP 84-1403-C (S.D. Ind. Dec. 7, 1988), 71

Williams v. Boston School Comm.
709 F. Supp. 27 (D. Mass. 1989), 558

Williams v. Bowen
879 F.2d 447 (8th Cir. 1989), 995

Williams v. Department of Human Servs. [44,944]; Acc. No. 1012099
561 A.2d 244 (N.J. 1989), 914, 997

Williams v. Forrest [44,907]; Acc. No. 1012057
No. SP 944-89 (D.C. Super. Ct., Civ. Div., May 10, 1989), 752

Williams v. Hevi-Duty Elec. Co. [41,107]; Acc. No. 1011619
No. 88-6332/6333 (6th Cir. Feb. 28, 1989), 174

Williams v. Illinois State Scholarship Comm'n [42,518]; Acc. Nos. 1011722; 1012472
No. 87-MR-180 (Ill. Cir. Ct., Madison County, Apr. 24, 1989), 303, 1433

Williams v. Lyng [41,616]; Acc. No. 1012000
744

Williams v. McClain
708 F. Supp. 1086 (W.D. Mo. 1989), 569

Williams v. Sullivan [42,853]
717 F. Supp. 639 (N.D. Ill. 1989), 1372

Williams v. Williams
781 P.2d 1170 (N.M. Ct. App. 1989), 1456

Williams v. Williams [45,328]; Acc. No. 1012448
1467

Williamson County Medical Center v. Dixon [45,129]; Acc. No. 1012445
1326

Willis v. Sullivan [43,693]; Acc. No. 1012184
No. 3-88-0372 (M.D. Tenn. Sept. 1, 1989), 1041

Wills v. Employment Appeal Bd.
447 N.W.2d 137 (Iowa 1989), 1474

Wilmer v. Sullivan [44,791]; Acc. Nos. 1011975; 1012407
No. B-89-337 (D. Md. Nov. 10, 1989), 754, 1343

Wilmington Hous. Auth. Evictions for Drug-Related Offenses, *In re* [44,876]; Acc. No. 1012003
(Del. J.P. Ct. May 22, 1989), 747

Wilson v. Capitol Hill Hosp. [44,716]; Acc. No. 1011896
602

Wilson v. Kemp [45,444]; Acc. No. 1012579
1556

Wilson v. Lynaugh
878 F.2d 846 (5th Cir. 1989), 993

Wilson v. Sullivan
886 F.2d 172 (8th Cir. 1989), 1382

Wilson v. Sullivan
709 F. Supp. 1351 (D.N.J. 1989), 714

Winder v. Review Bd. of Ind. Employment Sec. Div. [44,304]; Acc. No. 1011525
528 N.E.2d 855 (Ind. Ct. App. 1988), 76

Windley v. Department of Social Servs. [45,265]; Acc. No. 1012366
1354

Wisconsin *ex rel.* Girouard v. Circuit Court for Jackson County
439 N.W.2d 833 (Wis. Ct. App. 1989), 713

Wistedt v. Florida Dep't of Health & Rehabilitative Servs.
551 So. 2d 1236 (Fla. Dist. Ct. App. 1989), 1470

Witham v. Griner [45,269]; Acc. No. 1012419
No. 2609 (Tenn. Ch. Ct., Lewis County, Aug. 18, 1989), 1336

Witters v. State Comm'n for the Blind
771 P.2d 1119 (Wash. 1989), 560

Wolf Creek Collieries v. Robinson
872 F.2d 1264 (6th Cir. 1989), 564

Wolfe v. Martin [44,755]; Acc. No. 1011950
623

Women's Equity Action League v. Cavazos
879 F.2d 880 (D.C. Cir. 1989), 986

Woodbridge Hous. Ltd. Partnership v. Alton [44,736]; Acc. No. 1011919
No. 21467 (Va. Cir. Ct., Prince William County, Mar. 23, 1989), 620

Woodson v. Lack
865 F.2d 107 (8th Cir. 1989), 87

Woolfolk v. Rubin [44,822]; Acc. No. 1012505
No. N-88-266 (EBB) (D. Conn. Nov. 9, 1989), 1434

Worcester Hous. Auth. v. Massachusetts Comm'n Against Discrimination [42,126]; Acc. Nos. 1012090; 1012480
406 Mass. 244, 547 N.E.2d 43 (1989), 902, 1448

Work-A-Day of Nashua, Inc., *In re*
564 A.2d 445 (N.H. 1989), 1384

Wright v. Bowen
702 F. Supp. 709 (N.D. Ill. 1989), 88

Wyatt, *In re* [45,216]; Acc. No. 1012338
No. MA-46-6575 (Ind. Dep't of Pub. Welfare Sept. 18, 1989), 1327

Wyoming *ex rel.* L. v. P. [44,548]; Acc. No. 1011709
No. 88-253 (Wyo. Sup. Ct. Apr. 17, 1989), 308

— Y —

Yates, *In re* [45,364]; Acc. No. 1012482
No. 89-12702F (Bankr. E.D. Pa. Nov. 21, 1989), 1432

Yeska v. Wisconsin [44,357]; Acc. No. 1011548
No. 88-1301 (Wis. Ct. App. Feb. 23, 1989), 70

YMCA of Oak Ridge v. Blair [45,019]; Acc. No. 1012406
No. 89-088 (Tenn. Dist. Ct., Blount County, July 21, 1989), 1316

York v. Bowen
702 F. Supp. 903 (N.D. Ga. 1987), 88

Yorke Management v. Castro
546 N.E.2d 342 (Mass. 1989), 1464

Young v. Credit Bureau of Lockport [45,351]; Acc. No. 1012459
No. CIV-86-1121E (W.D.N.Y. Dec. 19, 1989), 1436

Young v. Kihl
720 F. Supp. 22 (W.D.N.Y. 1989), 1381

Younger v. Mitchell [45,278]; Acc. No. 1012417
777 P.2d 789 (Kan. 1989), 997, 1308

Yousif v. Ortuno [44,992]; Acc. No. 1012152
No. 87 U 28360 (Los Angeles, Cal., Mun. Ct. Jan. 26, 1988), 906

Yuhase v. County of Macomb
439 N.W.2d 267 (Mich. Ct. App. 1989), 559

— Z —

Zambrano v. INS [43,351]; Acc. Nos. 1012073; 1012572
No. S-88-455 EJG/EM (E.D. Cal. July 31, 1989); (E.D. Cal. Jan. 12, 1990), 747, 1560

Zanni v. Lippold [39,435]; Acc. No. 1011640
No. 85-3301 (C.D. Ill. Mar. 28, 1989), 176

Zebedee, Marriage of, *In re*
778 P.2d 694 (Colo. Ct. App. 1988), 1375

Zeien v. Palmer [44,729]; Acc. No. 1011914
No. 89-0018-A (S.D. Iowa June 15, 1989), 637

Zeigler v. Kirschner [43,398]
781 P.2d 54 (Ariz. Ct. App. 1989), 1470

Zelda, *In re*
534 N.E.2d 7 (Mass. App. Ct. 1989), 217

Zellweger v. Department of Social Servs.
547 N.E.2d 79 (N.Y. 1989), 1470

Zemel, *In re* [44,911]; Acc. No. 1012047
No. ABR-89-2284 (Ill. Dep't of Employment Sec. Bd. of Review July 25, 1989), 761

Zimmer v. Seltzer [44,704]; Acc. No. 1011878
No. 78556 (Mass. Super. Ct., Suffolk County, Apr. 15, 1989), 633

Zonner v. Heritage Hills, Ltd.
542 N.E.2d 697 (Ohio Ct. App. 1988), 1379

Zwernemann v. Kenny
563 A.2d 1139 (N.J. Super. Ct. App. Div. 1989), 1375

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— JOB ANNOUNCEMENT —

EXECUTIVE DIRECTOR

NATIONAL CLEARINGHOUSE FOR LEGAL SERVICES

The Board of Directors of the National Clearinghouse for Legal Services, Inc. is seeking an Executive Director to manage the operations of a national, non-profit publishing and computer research organization.

Responsibilities: The Executive Director serves as the chief executive of the National Clearinghouse. Management responsibilities include publishing *Clearinghouse Review*, a monthly journal for attorneys and non-lawyers providing legal services to low-income clients, plus several newsletters and practice manuals; operating a sophisticated nationwide computer research system; and maintaining a central repository of legal briefs, decisions and other materials available to customers upon request. The Director has overall responsibility to manage a 501(c)(3) organization with 20 employees and an operating budget of $1.3 million. The primary source of funding is through contracts with the federal Legal Services Corporation; the Director is responsible for ensuring compliance with the Legal Services Corporation Act and the corresponding regulations.

The position presents an excellent and challenging opportunity for creativity and innovation as the Clearinghouse seeks to maintain its tradition of excellence in print publications, to enlarge its use of emerging computer technology, and to expand its ability to serve attorneys and paralegals in legal services programs and others representing low-income persons.

Qualifications: Minimum qualifications include a law degree or extensive legal background and three to five (3-5) years management experience. Experience in the practice of law, especially within a legal services or public interest practice, will be especially valuable. Experience in other areas such as social issues, publishing, journalism and/or information technology are all highly desirable. Non-profit, association or government/public relations experience will be useful. Interest in matters affecting low-income people is essential.

General management experience, including budget planning and marketing/fundraising, is preferred, though extensive experience in middle management is satisfactory. Applicants should have demonstrated skills in leadership, negotiation, communication with a wide and diverse public, staff and Board relations, delegation of duties and responsibilities, motivation and staff development. Excellent written and verbal skills are required.

Practical skills and experience in publishing, marketing, grantsmanship, government relations, management and development of technological products or services are desired qualities.

Background: The National Clearinghouse is now in its 24th year of providing a variety of information services to legal services attorneys and paralegals, attorneys in private practice, law schools and other organizations that provide legal advice and representation to low-income people. NCLS serves as the central repository and clearinghouse of information on poverty law and distributes information in three principal ways:

1) Publication of *Clearinghouse Review*, its well-respected monthly legal journal. The *Review* is the only journal in the country devoted to poor people and the law. Averaging 128 pages, the *Review* publishes scholarly and practical articles and columns by experts in specialized areas including consumer law, health programs, child and family law, welfare benefits and the rights of senior citizens. Its most popular feature are the Case Developments, summaries of developments in pending poverty law cases. The *Review* now provides Case Development summaries over the HandsNet computer network, and full text of cases through the Order Department.

NCLS also publishes newsletters such as *Federal Register Highlights*, and manuals such as the Federal Practice Manual for Legal Services Attorneys;

2) Computerized research and telecommunications. Since 1982, our computer-assisted legal research (CALR) project has provided research in commercial data bases such as Westlaw and Dialog, and in a private data base developed and maintained by the Clearinghouse on Westlaw and its in-house system. In recent years, NCLS has moved aggressively to expand its capabilities to provide information in computerized formats, including active participation in the HandsNet bulletin board system, and selection by the Supreme Court of the United States to serve as one of twelve companies to electronically receive and retransmit the Court's opinions;

3) The Library and Order Department house over 45,000 case files of decisions, briefs, pleadings and practice manuals. As a true clearinghouse, NCLS makes copies of documents from these case files available to legal services staff and others upon request. In 1989, the Order Department provided nearly 25,000 documents. The National Clearinghouse is an Illinois not for profit corporation and located in downtown Chicago. The Executive Director reports to a volunteer Board of Directors drawn from across the country and manages an experienced staff of 20 members. The organization is financially sound and fiscally prudent.

Compensation: Salary is competitive and will depend upon experience and qualifications. Employee benefits include fully-paid medical, dental, vision and term life insurance (NLCS pays 75% of dependent health-related premiums), modest pension plan, and good leave benefits.

Closing Date for Applications: Resume and letter of interest should be received by Friday, June 29, 1990, for full consideration by the Search Committee. The position is open until filled.

Applications: Please send resume and letter of interest to:

Search Committee
National Clearinghouse for Legal Services
407 S. Dearborn, Suite 400
Chicago, IL 60605

National Clearinghouse for Legal Services is an equal opportunity employer. Minorities, women and persons with disability are encouraged to apply.

Clearinghouse seeks new Executive Director

See inside back cover for full details

National Clearinghouse for Legal Services, Inc.
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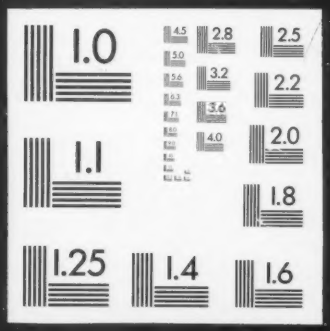
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